



city of  
**covington**  
growing toward greatness

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***The City of Covington is a destination community where citizens, businesses and civic leaders collaborate to preserve and foster a strong sense of unity.***

## **PLANNING COMMISSION AGENDA**

**November 1, 2018**

**6:30 PM**

CALL TO ORDER

ROLL CALL

Chair Chele Dimmett, Vice Chair David Caudle, Jennifer Gilbert-Smith, Jennifer Harjehausen, Jonathan Ingram, Elizabeth Porter, & Murray Williams

PLEDGE OF ALLEGIANCE

SPECIAL ORDER OF BUSINESS – Election of Officers

APPROVAL OF AGENDA

APPROVAL OF CONSENT AGENDA

C1. Minutes from October 18, 2018

**CITIZEN COMMENTS** - *Note: The Citizen Comment period is to provide the opportunity for members of the audience to address the Commission on items either not on the agenda or not listed as a Public Hearing. The Chair will open this portion of the meeting and ask for a show of hands of those persons wishing to address the Commission. When recognized, please approach the podium, give your name and city of residence, and state the matter of your interest. If your interest is an Agenda Item, the Chair may suggest that your comments wait until that time. Citizen comments will be limited to four minutes for Citizen Comments and four minutes for Unfinished Business. If you require more than the allotted time, your item will be placed on the next agenda. If you anticipate your comments taking longer than the allotted time, you are encouraged to contact the Planning Department ten days in advance of the meeting so your item may be placed on the next available agenda.*

UNFINISHED BUSINESS – None

PUBLIC HEARING – Action Required

1. Joint Public Hearing for Ecology and the City on proposed amendments to the Shoreline Master Program (LA18-0009/SEPA18-08)

NEW BUSINESS- No Action Required

ATTENDANCE VOTE

PUBLIC COMMENT: (Same rules apply as stated in the 1<sup>st</sup> CITIZEN COMMENTS)

COMMENTS AND COMMUNICATIONS OF STAFF AND COMMISSIONERS

ADJOURN

*Any person requiring a disability accommodation should contact the City at least 24 hours in advance. For TDD relay service please use the state's toll-free relay service (800) 833-6384 and ask the operator to dial (253) 480-2400*





## Planning Commission Minutes

**October 18, 2018**

**City Hall Council Chambers**

### **CALL TO ORDER**

The regular meeting of the Planning Commission was called to order at 6:32 p.m. by Chair Dimmett.

### **MEMBERS PRESENT**

Chele Dimmett, Jennifer Gilbert-Smith, Jennifer Harjehausen, Elizabeth Porter, David Caudle, and Murray Williams

**MEMBERS ABSENT-** Jonathan Ingram

### **STAFF PRESENT**

Richard Hart, Community Development Director  
Salina Lyons, Principal Planner  
Ann Mueller, Senior Planner  
Kelly Thompson, Planning Commission Secretary

### **APPROVAL AGENDA**

- **Commissioner Williams moved and Commissioner Porter seconded to approve the revised order of the agenda. The motion carried 6-0.**

### **APPROVAL OF CONSENT AGENDA AND MINUTES**

- **C1. Commissioner Williams moved and Commissioner Harjehausen seconded to approve the September 20, 2018 minutes. The motion carried 6-0.**

**CITIZEN COMMENTS – None**

### **NEW BUSINESS – No Action Required**

1. Presentation by Soos Creek Water and Sewer on Regional Conveyance System and Lift Station Site

Ron Speer from Soos Creek Water and Sewer District gave a brief presentation. He provided responses to questions from the Planning Commission.

Community Development Director Richard Hart gave the Planning Commission background on challenges on their site.

Commissioner Gilbert-Smith asked a question about the process of rezoning a property. Mr. Hart provided a response.

The Planning Commission asked additional questions with Mr. Hart and Mr. Speer providing responses.

### **UNFINISHED BUSINESS – None**

### **PUBLIC HEARING**

1. Public Hearing and Recommendation on the 2018 Docket to amend the Comprehensive Plan and related code amendment.

Chair Dimmett declared the public hearing open.

Senior Planner, Ann Mueller provided the staff report.

Commissioner Caudle clarified the scope of the docket. Ms. Mueller confirmed his understanding of the scope is correct.

Commissioner Gilbert-Smith asked for clarification on a point on the map. Ms. Mueller responded.

Chair Dimmett asked about the classification change from a small city to a larger city. Ms. Mueller and Ms. Lyons provided responses.

Public Comment - None

Chair Dimmett declared the public hearing closed.

- **Commissioner Caudle moved and Commissioner Williams seconded to recommend that the City Council approve the proposed 2018 Comprehensive Plan amendments to the Land Use, Natural Environment, Capital Facilities, and Parks, Recreation, and Open Space Elements and the code amendment to CMC 18.65.311, in substantial form as found in the Planning Commission staff memo, finding that the amendments are in accordance with the Covington Comprehensive Plan, CMC 14.25.060 Selection and decision criteria for comprehensive plan amendments, and CMC 14.27.040 Decision criteria for code amendments. The motion carried 6-0.**

### **ATTENDANCE VOTE**

- **Commissioner Gilbert-Smith moved and Commissioner Williams seconded to excuse the absence of Commissioner Ingram. Motion carried 6-0.**

### **PUBLIC COMMENTS - None**

**COMMENTS AND COMMUNICATIONS FROM STAFF AND COMMISSIONERS**

Chair Dimmett gave a proclamation recognizing Community Development Director, Richard Hart for over 11 years of service to the city as he has announced his retirement.

Ms. Mueller reminded the Planning Commission that the draft documents of the Shoreline Master Plan are available on the city's website.

Mr. Hart gave an overview of the 2018 Work Program progress report.

Commissioner Caudle asked about the status of the Lakepointe development. Mr. Hart and Ms. Lyons provided responses.

Mr. Hart reminded the Planning Commission that there will be a joint study session from 6:00 – 7:00 p.m. before the City Council on October 23, 2018 to discuss the sign code update.

Several commissioners congratulated Mr. Hart on his retirement.

Ms. Muller shared there will be a community meeting with Lakepointe on November 14, 2018 at 6:00 p.m.

There is also a Covington Connector meeting on the 29<sup>th</sup>.

**ADJOURN**

The October 18, 2018 Planning Commission Meeting adjourned at 7:45 p.m.

Respectfully submitted,

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Kelly Thompson, Planning Commission Secretary





# Memo

To: Planning Commissioners

From: Ann Mueller, Senior Planner

Date: November 1, 2018

Re: Periodic Review: Joint Public Hearing with Ecology on proposed amendments to the Shoreline Master Program (LA18-0009/SEPA18-08)

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## OVERVIEW

Since the early 1970's the Washington State Shoreline Management Act (SMA) has required jurisdictions to develop shoreline management programs. The SMA specifically states:

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

The SMP is a joint local-state regulatory program, with the Washington State Department of Ecology (Ecology) providing guidance on how to fully implement the policies of the SMA and local jurisdictions having the primary responsibility for undertaking the public process and tailoring a Program that is context-sensitive. To ensure consistency with statewide interests, Ecology conducts a review of locally-adopted SMPs and must approve locally-adopted SMPs before they can take effect.

The City's current Shoreline Master Program was adopted by the City and approved by Ecology in early 2011, along with other background documents including a Shoreline Restoration Plan and the Cumulative Impacts Analysis for Covington's shorelines. That 2011 comprehensive update to the SMP, was the result of several years of work starting in 2007, which included an inventory and characterization the City's shorelines, developing goals, polices, and regulations for development along the City's shorelines. The 2011 SMP was developed with the help of an Ad Hoc Advisory Committee. Prior to the 2011 SMP, the City had adopted King County's Shoreline Management Program regulations in 1997 when it was incorporated and prior to incorporation King County shoreline regulations had applied to shorelines that are now part of Covington.

Areas subject to the SMP in Covington are shown on the Shoreline Management Environmental Designation Map (**Attachment 1**). Under the SMA, all of the following areas are regulated as “Shorelines of the State” under the SMP:

- Streams with over 20 cubic feet per second (cfs) mean annual flow; their floodway and contiguous floodplain areas extending 200 feet from the floodway;
- Lakes 20 acres or greater in size;
- Shorelands 200 feet landward from the ordinary high water mark of all jurisdictional streams and lakes; and
- Associated wetlands that are hydrologically connected to any of the shorelines described above.

Any development within shoreline jurisdiction that is not explicitly exempt under the City’s SMP must obtain a Substantial Development Permit. The City has adopted the exemptions as listed by the state in WAC 173-27-040, and as subsequently amended. If a development is listed as exempt, the applicant/property owner is still required to obtain a Shoreline Letter of Exemption from the City.

**Periodic Review**

The City of Covington is required to conduct a periodic review of its SMP, consistent with Washington State Shoreline Management Act, WAC 17-26-090(2), once every eight years. This review ensures that the local SMP stays current with changes in state laws and rules, remains consistent with other City of Covington plans and regulations, and is responsive to changing circumstances, new information, and improved data. This is the first periodic review conducted for Covington’s SMP since the Comprehensive Update was approved by Ecology in 2011

The required minimum scope of this SMP periodic review is:

- To assure that the master program complies with applicable law and guidelines in effect at the time of the review; and
- To assure consistency of the master program with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements.
  - The review process provides the method for bringing SMPs into compliance with the requirements of the SMA that have been added or changed since the last review and for responding to changes in guidelines adopted by Ecology, together with a review for consistency with amended comprehensive plans and regulations. Local governments should also incorporate amendments to reflect changed circumstances, new information, or improved data. The review ensures that shoreline master programs do not fall out of compliance over time through inaction.

The State is not requiring major updates to Covington’s inventory, restoration efforts, or cumulative impacts analysis. However, the City must include all relevant state mandated updates between 2011 and 2018 as well as local changes in circumstances.



The current 2011 Covington SMP can be viewed in full on line here:

[http://www.covingtonwa.gov/city\\_departments/communitydevelopment/shorelinemasterplan](http://www.covingtonwa.gov/city_departments/communitydevelopment/shorelinemasterplan)

The proposed amendments to the City's SMP can be found in the following documents:

**Attachment 2** – Proposed amendments to the Shoreline Element of the Comprehensive Plan

**Attachment 3** – Codification of the SMP regulations existing and updated into CMC 16.05

**Attachment 4** – Proposed amendments to the critical area regulations (CMC 18.65)

**Attachment 5** – Proposed amendments to definitions (CMC 18.20)

### **Joint Review**

The City of Covington has elected to use an optional joint review process (WAC 173-26-104) that combines the local and state public comment periods required by RCW 90.58.090. This review includes a joint City and Ecology public hearing and a combined public comment period. The combined public comment period runs from September 28, 2018 to November 1, 2018. The Covington Planning Commission and Ecology will hold the joint public hearing on November 1, 2018.

After the joint public hearing and after a recommendation by the Planning Commission is made to forward these proposed SMP related amendments to the City Council for approval, the City will submit the draft SMP recommended by the Planning Commission with supporting documentation to Ecology for an initial determination. Once the City receives Ecology's initial determination staff will forward the draft SMP amendments to the City Council for final adoption. After Council adoption it is forwarded back to Ecology for final review and action consistent with WAC 173-26-120.

### **Summary of changes to Covington's SMP**

A gap analysis was prepared by the City's consultants from The Watershed Company and BERK to review the current SMP for consistency with legislative amendments since its adoption, as well as consistency with the City's current Comprehensive Plan and the Covington Municipal Code, this analysis was used to guide these proposed amendments. (**Attachment 6**)

The substantive changes to the SMP include changes that affect the following:

- non-conforming residential structures;
- updated exemption rules;
- addition of regulations related to vegetation and water quality in the shoreline jurisdiction consistent with existing policies;
- amendments to the sign regulations in the SMP;
- incorporation of updated Ecology guidance on setbacks from wetlands in the critical area regulations (CMC 18.65), edits to the critical area regulations; and
- edits to zoning code definitions (CMC 18.20).

The City has also undertaken a non-substantive, but significant reformatting and restructuring of the SMP, as part of this periodic update in an effort to make the SMP easier to navigate and implement, as well as eliminate vagueness, repetition and/or internal conflict. This entailed moving existing SMP Policies from the 2011 SMP document to the Comprehensive Plan's Shoreline Element and locating the SMP shoreline map in the Shoreline Element. The 2011 SMP

regulations were codified and are now proposed to be included in Chapter 16.05 of the Covington Municipal Code(CMC).

Furthermore, amendments have been made to the existing critical area regulations (CMC 18.65). The 2011 SMP included as an appendix with a separate set of critical area regulations as it existed prior to the recent critical area update. Staff is proposing amendments to the current critical area regulations in CMC 18.65 to include some shoreline-specific regulations and exclusions to ensure consistency with state SMA laws. This will relieve staff and the public from navigating two sets of regulations.

**Public Notification and Outreach Efforts**

- **SMP Periodic Review webpage went live with content:** July 2, 2018
- **Postcards mailed to property owners within the shoreline jurisdiction informing them the city was doing a periodic review of the SMP:** July 18, 2018
- **Intro email sent to agency/stakeholder contact list:** July 18, 2018
- **Informational Flyer distributed at city booth @ Covington Days:** July 21 & 22, 2018
- **Postcards announcing Open House and joint public hearing mailed to property owners within the shoreline jurisdiction:** Sept. 27, 2018
- **Flyers distributed to City Council Members and placed at City Hall:** September 26, 2018
- **DNS issued:** Sept 28, 2018 (sent to SEPA register)
- **Legal notice of Planning Commission/ Joint public hearing, DNS and Open House/ 30-day comment period published in Reporter:** September 28, 2018
- **Legal notice of Planning Commission/ Joint public hearing, DNS and Open House/ 30-day comment period posted at City Hall and on Webpage:** September 28, 2018
- **60-day notice to Commerce:** September 28, 2018
- **Email notice to agency/stakeholder contact list (including PSRC):** September 28, 2018
- **Public Open House at City Hall:** October 4, 2018
- **Legal notice of Planning Commission/ Joint public hearing, 30-day comment period published in Reporter:** October 12, 2018
- **Legal notice of Planning Commission/ Joint public hearing, 30-day comment period posted at City Hall and on Webpage:** October 12, 2018
- **Postcards with reminder about joint public hearing mailed to property owners within the shoreline jurisdiction:** October 15, 2018
- **Informational courtesy email sent to agency/stakeholder list about joint public hearing and comment period:** October 17, 2018

**City Adoption Requirements**

These proposed amendments for the periodic review of the SMP are a requirement of state law; thus consistent with CMC 14.25.060(1)(b). Furthermore, the proposed amendments, resulting from this periodic review of the SMP, to codify the regulations into the Covington Municipal Code are consistent with the applicable criteria in CMC 14.27.040. The Growth Management Act allows exceptions to an annual docket timeline for the adoption of shoreline master program amendments, under the procedures set forth in chapter 90.58 RCW. (RCW 36.70A.130(2)(a))

**Joint City & Ecology Public Hearing**

The periodic review and associated SMP amendments are a legislative action; tonight, the Planning Commission and Ecology are holding a joint public hearing on the attached amendments to accept public comments. After the close of the public hearing the Planning Commission will discuss and forward a recommendation to the City Council on these proposed

amendments. Prior to the City Council's final review and decision on the revised SMP, City staff will prepare a response to all comments received during the joint 30-day public comment period and forward that to Ecology along with the draft SMP amendments.

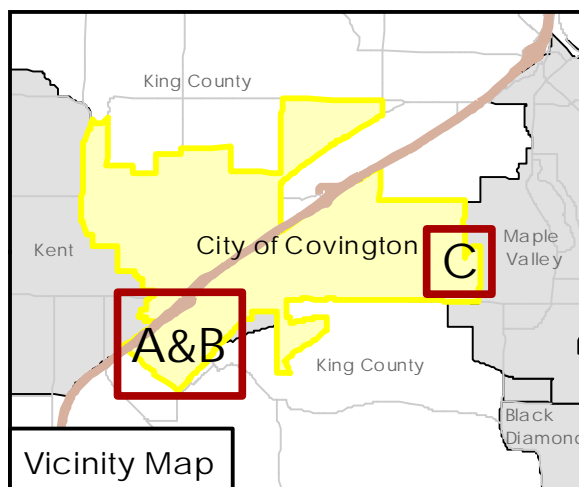
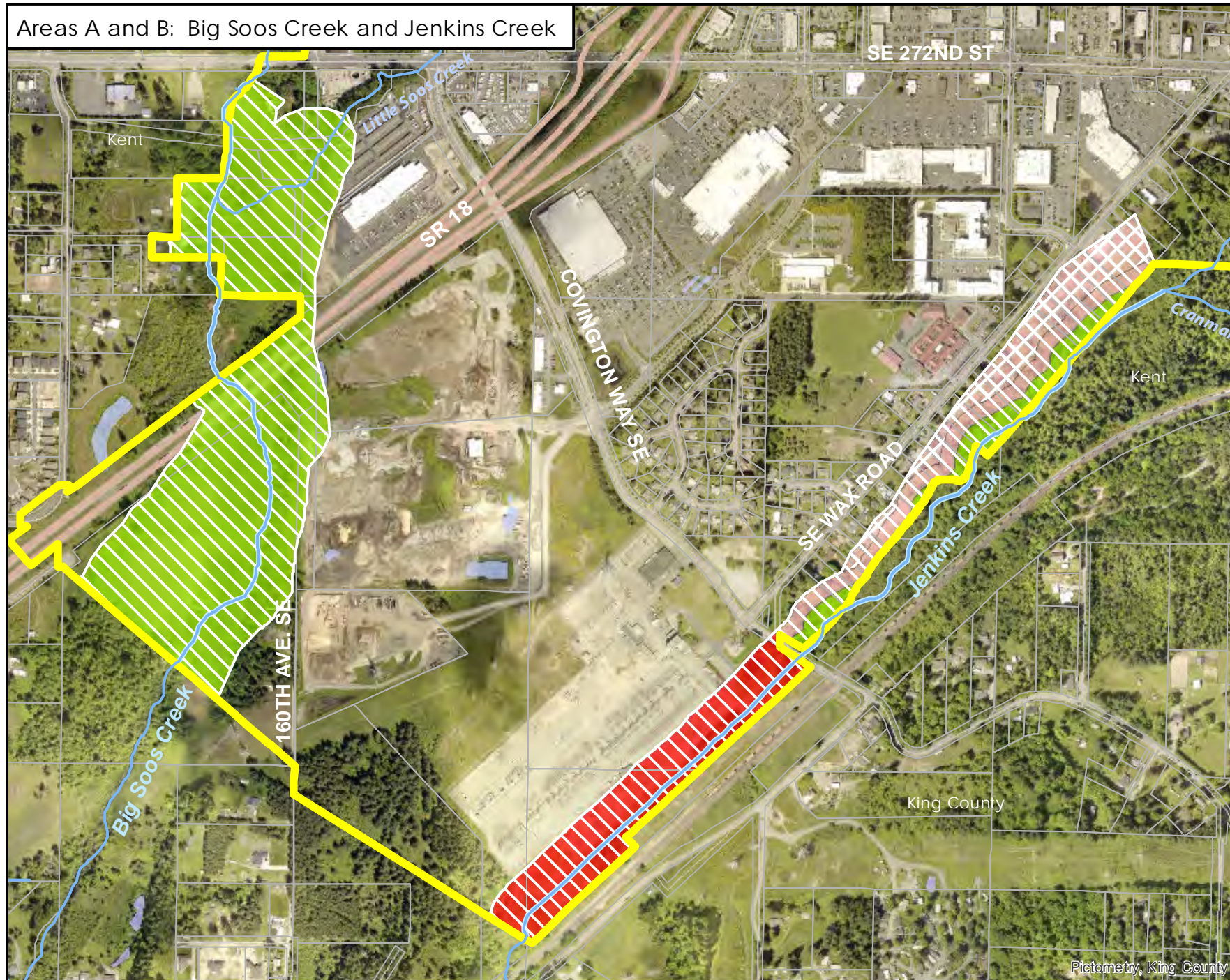
**Recommended Planning Commission Motion:**

\_\_\_\_\_ move as part of Covington's Periodic Review of the Shoreline Master Program, to forward to the City Council the proposed amendments to the Shoreline Element of Covington's Comprehensive Plan, and amendments to Covington Municipal Code Chapters: 16.05 Shoreline Master Program, 18.65 Critical Areas, and 18.20 Definitions, in substantial form as found attached to this staff memo.

**Attachments**

1. Shoreline Environmental Jurisdiction Map
2. Proposed amendments to the Shoreline Element of the Comprehensive Plan
3. Codification of the SMP regulations existing and updated into CMC 16.05
4. Proposed amendments to the critical area regulations (CMC 18.65)
5. Proposed amendments to definitions (CMC 18.20)
6. Gap Analysis





### Shoreline Management Environmental Designations

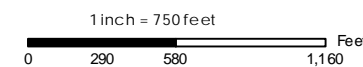
**Environmental Designations**

- High Intensity
- Medium Intensity
- Medium Intensity Subject to Wetland Study<sup>1</sup>
- Shoreline Residential
- Urban Conservancy

- Shoreline Management Area
- Shoreline Approximate OHWM<sup>2</sup>
- Streams<sup>3</sup>
- Water Bodies
- Roads
- State Route 18
- Tax Parcels
- Covington City Limits

1. This area is shown within the SMA because it is as a wetland. If site specific studies by a qualified biologist determine that wetland designation criteria is not met in a given location, by definition, these areas would be excluded from SMA jurisdiction.
2. OHWM = Ordinary High Water Mark
3. Location of streams are approximate and subject to field verification at time of application.

Exhibit S-2



Shoreline jurisdiction and wetland boundaries depicted on this map are approximate. They have not been formally delineated or surveyed and are intended for planning purposes only. A additional site-specific evaluation may be needed to confirm/verify information shown on this map.

No warranties of any sort, including but not limited to accuracy, fitness or merchantability, accompany this product.

Source: King County GIS

Map Date: August 2008 (updated Oct. 2018)



# SHORELINE



## WHAT YOU WILL FIND IN THIS CHAPTER

This element addresses  
Covington’s shorelines of the state  
– segments of Big Soos Creek,  
Jenkins Creek, and Pipe Lake.

## SHORELINE ELEMENT

Since the early 1970s, the Washington State Shoreline Management Act (SMA) has required that jurisdictions develop shoreline management programs for areas with significant shorelines.

Washington State, in partnership with Department of Ecology (Ecology), requires that cities with areas designated as “Shorelines of the State” update their Shoreline Master Program in accordance with the SMA and the State Shoreline Master Programs Guidelines.

One of the goals of the Growth Management Act (GMA) incorporates the goals and policies of the SMA as set forth in RCW 90.58.020. A community’s shoreline master program goals and policies is considered part of the

SHORELINE

**KEY TERMS**

“Shorelines” means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes. (RCW 90.58.030(2)(e))

Segments of Big Soos Creek, Jenkins Creek, and Pipe Lake are shorelines of the state in Covington.

Comprehensive Plan. The shoreline master program development regulations are considered part of a community’s GMA development regulations.

In July 2007, the City of Covington obtained a grant from Ecology to conduct a comprehensive Shoreline Master Program (SMP) update. As a result, the City inventoried its shorelines and developed goals, policies, and regulations for any new development along the city’s shorelines. The goals and policies were developed with the help of an Ad Hoc Advisory Committee that included property owners along Jenkins Creek, Soos Creek, and Pipe Lake; members of the Planning Commission and Parks and Recreation Commission; a representative from Soos Creek Water & Sewer District; an area homeowner association member; and a member of the business community.

In March 2011, the City Council forwarded the final draft of the SMP to Ecology for its approval (Ordinance No. 05-11). In April 2011, Ecology adopted the City of Covington’s Final SMP.

This element summarizes and provides the SMP goals, as well as incorporates the City’s SMP by reference.





## SHORELINE MANAGEMENT ACT

Washington's Shoreline Management Act (SMA) was adopted by the public in a 1972 referendum "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

The Act has three broad policies:

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

The SMA recognizes that "shorelines are among the most valuable and fragile" of the state's resources. The SMA, and the City of Covington, recognize and protect private property rights along the shoreline, while aiming to preserve the quality of this unique resource for all state residents.



Pipe Lake, King County 2015

SHORELINE

## WHAT DOES IT MEAN?

Three shorelines of the state are found in Covington: Big Soos Creek, Jenkins Creek, and Pipe Lake. Shoreline jurisdiction generally includes the water bodies at greater than 20 cubic feet per second flow or lakes of 20 acres or more plus 200 feet landward of the waterbody and associated wetlands. The three shorelines in Covington encompass about 104 acres of shoreline jurisdiction and 2.45 miles of shorelines and lakeshore. Shoreline jurisdiction is a management area where shoreline uses, ecological function, and public access are balanced consistent with SMA goals.

The City's SMP has been prepared consistent with the SMA and provides goals, policies, and regulations of each shoreline. The SMP is adopted by the City of Covington and the Washington State Department of Ecology (Ecology). The City administers the SMP, though Ecology has authority over shoreline conditional use permits and shoreline variances.

Predominant uses along Covington shorelines include low-density residential, utility, and mixed housing/office uses. The stream corridors contain floodplains and wetlands; minimal critical areas are located along Pipe Lake. Planned land uses match present uses – residential, industrial (utility), and public. There are some adjacent public access locations just outside the Soos Creek and Jenkins Creek shoreline jurisdiction boundaries.



## SHORELINE ISSUES AND TRENDS

### CONDITIONS AND TRENDS

The City's shorelines include Big Soos Creek, Jenkins Creek, Pipe Lake, and their associated shorelands. The total area subject to the City's updated SMP is approximately 104 acres, and encompasses 12,934 lineal feet (2.45 miles) of stream and lakeshore.

Big Soos Creek is surrounded largely by very low-density residential uses and undeveloped lands. Other land uses include a small strip of industrial lands along the eastern edge of the shoreline management area and SR 18 bisecting the area roughly in half from northeast to southwest. The two SR 18 bridge spans and associated embankment fill, armoring, footings, and pilings are the only known shoreline modifications in the Big Soos Creek shoreline area within city limits. Public access opportunities exist on public lands inside and outside of shoreline jurisdiction, such as the adjacent Soos Creek Park. Floodplains and wetlands make up much of the shoreline jurisdiction along Big Soos Creek. The stream is used by chinook and coho salmon as well as steelhead and cutthroat trout. (The Watershed Company, November 2010)

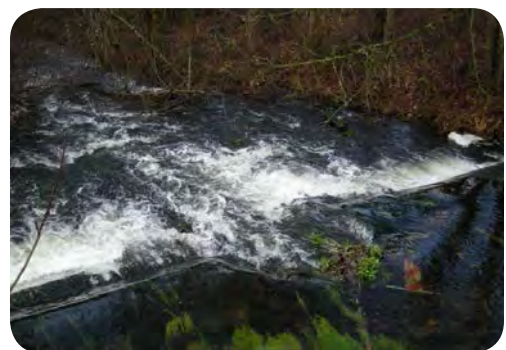
Along Jenkins Creek, over half of the shoreland area is in low-density residential uses. Much of the rest of the land is in public utility use by the Bonneville Power Administration's Covington substation or is undeveloped. Covington Way SE crosses the shoreline jurisdiction of Jenkins Creek just southeast of SE Wax Road outside the city limits (King County jurisdiction), while SE Wax Road runs parallel to Jenkins Creek just outside the shoreline



Pipe Lake, King County



Big Soos Creek  
The Watershed Company, 2010



Jenkins Creek  
The Watershed Company, 2010

## SHORELINE

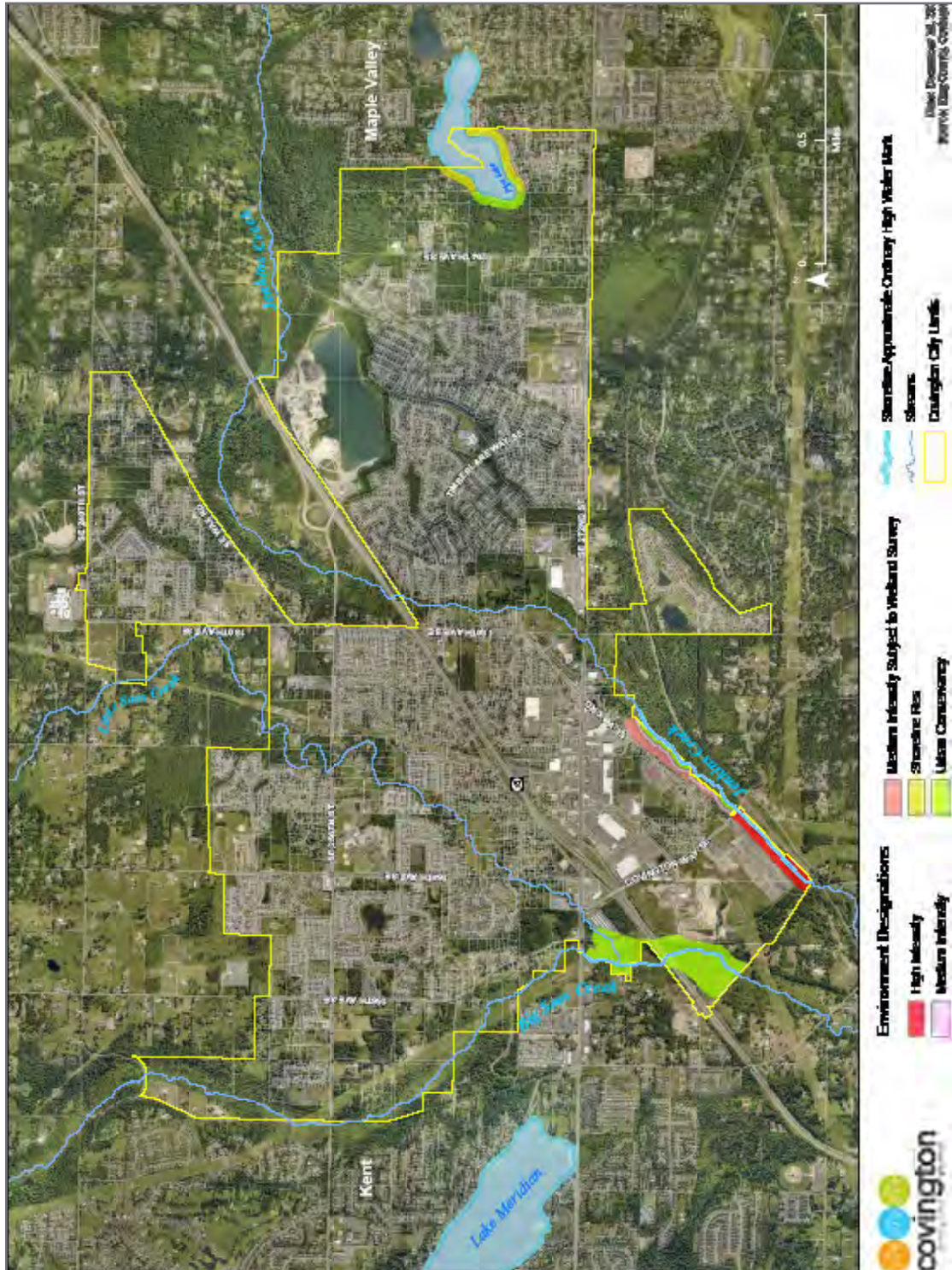
jurisdiction to the north. The Jenkins Creek channel bordering the Bonneville Power Administration (BPA) substation has been straightened. Just upstream of the BPA site, the stream passes through a three-bay concrete box culvert under Covington Way SE. Public shoreline access to Jenkins Creek exists currently within Jenkins Creek Park and Jenkins Creek Trail, both of which are located further upstream outside of the shoreline jurisdictional area. Floodplains and wetlands are found along the Jenkins Creek shoreline. Fish species include chinook and coho salmon, steelhead, and resident cutthroat trout. (The Watershed Company, November 2010)

Pipe Lake is approximately 52 acres and has a maximum depth of approximately 65 feet and a mean depth of 27 feet. Pipe Lake feeds into Lake Lucerne, which eventually feeds into a tributary of Jenkins Creek approximately one-half mile to the north of Lake Lucerne. There are no visible inflows into either lake. Currently, over half of the shorelands surrounding Pipe Lake are in low-density residential uses. Camp McCullough, owned by the Presbyterian church, comprises another third of the shoreline frontage, while the remaining is undeveloped. There are a number of docks that are owned and maintained by private homeowners associations located along the lake. There is also a boat launch and dock along the western shore of the lake that is associated with Camp McCullough. This parcel has some natural shoreline. Motorized boats on Pipe Lake are prohibited. While there are some wooded areas, there are minimal mapped critical areas. It appears the lake may support cutthroat trout and possibly rainbow trout when stocked by lake residents. (The Watershed Company, November 2010)

A map showing shoreline jurisdiction and locations of floodplains and wetlands is provided in Exhibit S-1.



Exhibit S-1. Covington Shorelines and Environment Designations



Source: King County GIS Center, 2015; City of Covington, 2015

SHORELINE

**VISION CONNECTION**

The Shoreline Element implements the vision and framework goals by establishing policies and regulations that retain unique shoreline neighborhoods and conserve ecological features.

**CHALLENGES AND OPPORTUNITIES**

This Shoreline Element balances:

- Preferred shoreline uses such as single family residential and water oriented uses such as recreation
- Ensuring no-net-loss of shoreline ecological function
- Promoting public access opportunities, with larger developments or on public lands

These three goals are balanced consistent with SMA requirements and through application of shoreline environment designations that function as an overlay to the underlying zoning (see “Our Shoreline Plan”) permitted uses and regulations.

The SMP includes Environment Designations that function as an overlay zone on top of the City’s underlying zoning. The Environment Designations control land use, building placement, height, and other aspects of shoreline development. Each designation has a different purpose.

**OUR SHORELINE PLAN**

- **High Intensity:** The purpose of the High-Intensity Environment Designation is to provide for high-intensity water-oriented and non-water oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.
- **Medium Intensity:** The purpose of the Medium-Intensity environment designation is to provide for water-oriented and non-water oriented commercial, mixed-use, and residential-uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded. Adaptive reuse of existing structures for office uses



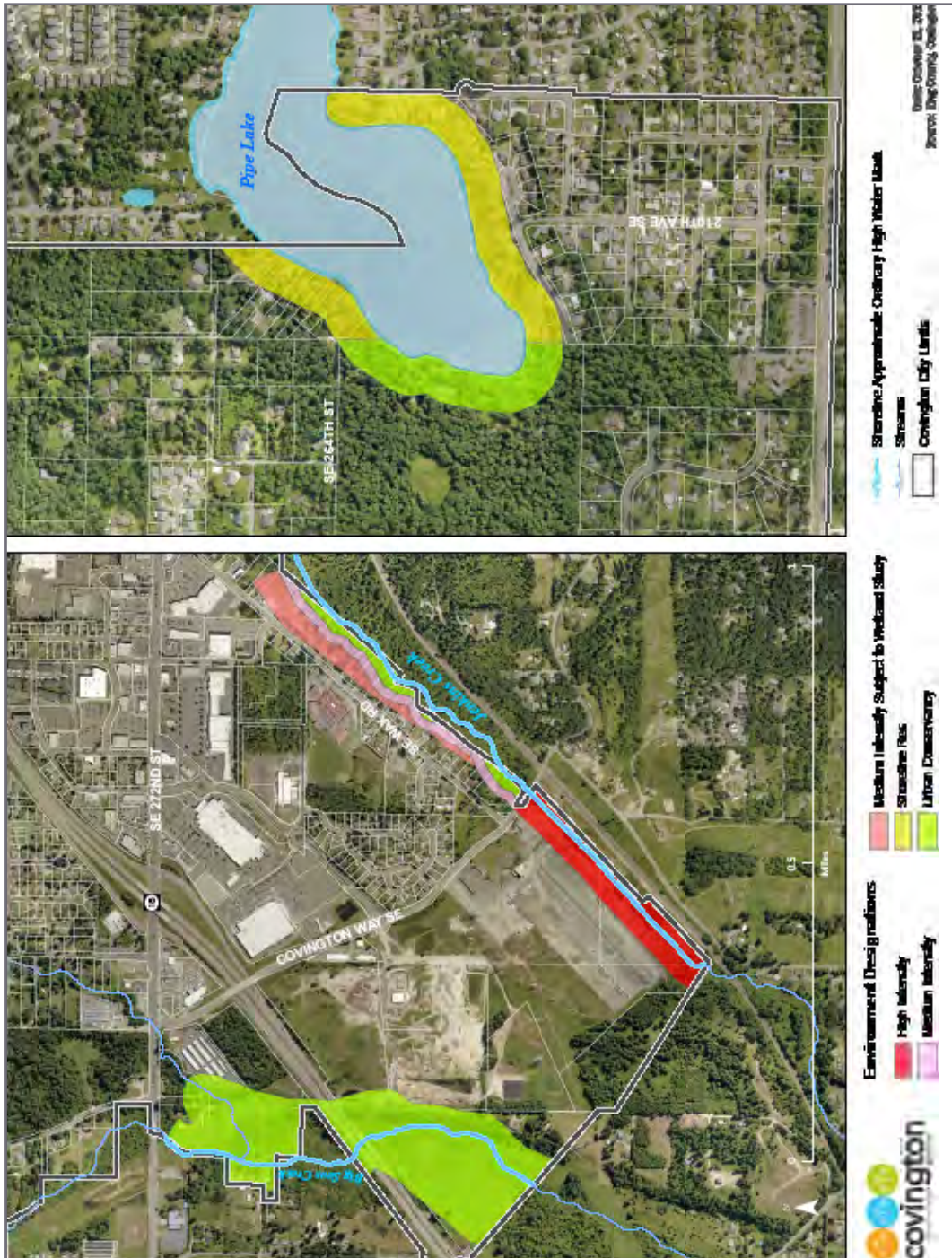
is emphasized, along with public access and water-enjoyment uses. A subset of this designation is subject to a wetland study and is marked on the map as: Medium Intensity Subject to Wetland Study.

- **Shoreline Residential:** The Shoreline Residential Environment Designation is designed to provide for residential needs where the necessary facilities for development can be provided. An additional purpose is to provide appropriate public access and recreational uses.
- **Urban Conservancy:** The purpose of the Urban Conservancy Environment Designation 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.
- **Aquatic:** The purpose of the Aquatic environment designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

A map identifying the Environment Designations is found in Exhibit S-2. Management policies for each of the Environment Designations can be found in the Washington Administrative Code (WAC 173-26-211) with the exception of the Medium Intensity Environment, which is unique to Covington. This environment designation was established to balance the protective functions of an Urban Conservancy Environment with a more use-oriented designation such as High Intensity or Shoreline Residential. The management policies for the Medium Intensity Environment Designation can be found in the Goals and Policies section that follows.

SHORELINE

Exhibit S-2. Covington Environment Designations Detail



Source: King County GIS Center, 2015; City of Covington, 2015





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## GOALS AND POLICIES

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### SHORELINE GOALS

- Goal S-I.** Ensure that any economic activity taking place along the shoreline does not harm the quality of the site's environment or adjacent shorelands, and that new non-residential development provides public access to the shoreline for water-enjoyment activities.
- Goal S-II.** Increase the amount and diversity of public access to the shoreline and preserve and enhance views of the shoreline consistent with the natural shoreline character, private rights, and public safety.
- Goal S-III.** Encourage diverse, water-oriented recreational opportunities in those shoreline areas that can reasonably tolerate such uses without destroying the integrity and character of the shoreline.
- Goal S-IV.** Maintain safe, reasonable and adequate vehicular, bicycle, and pedestrian circulation systems to shorelines and ensure that these routes will have the least possible adverse effect on unique or fragile shoreline features and existing ecological systems, while contributing to the functional and visual enhancement of the shoreline.

SHORELINE

- Goal S-V.** Preserve, protect, and restore to the greatest extent feasible the natural resources of the shoreline, including but not limited to scenic vistas, aesthetics, and vital riparian areas for wildlife protection.
- Goal S-VI.** Ensure that the land use patterns within shoreline areas are compatible with shoreline environment designations and will be sensitive to and not degrade habitat and ecological systems and other shoreline resources.
- Goal S-VII.** Identify, protect, preserve, and restore important archaeological, historical and cultural sites located in shoreline jurisdiction of Covington for their educational and scientific value as well as for the recreational enjoyment of the general public.
- Goal S-VIII.** Protect the City of Covington from losses and damage created by flooding.

Note: Shoreline Policies is a new section added to this element, but the policies are the same as adopted in the original SMP in 2011.

**SHORELINE POLICIES**  
***Economic Development***

- Policy S-1.** Proposed economic use of the shoreline should be consistent with Covington's Comprehensive Plan. Conversely, upland uses on adjacent lands outside of immediate SMA jurisdiction (in accordance with RCW 90.58.340) should be consistent with the purpose and intent of this master program as they affect the shoreline.



**Public Access**

- Policy S-2. Identify and prioritize both long term and short term public access sites.**
- Policy S-3. Integrate public access to shorelines as a part of the City's public trail system.**
- Policy S-4. Provide and enhance shoreline access to Jenkins Creek and Big Soos Creek through fee simple acquisition, easements, signage of public access points, and designation and design of specific shoreline access areas for wildlife viewing.**
- Policy S-5. Coordinate with the owners of Camp McCullough to explore potential public access opportunities to Pipe Lake in the event of future development and conversion to a non-recreational use.**
- Policy S-6. Ensure new public access does not adversely affect the integrity and character of the shoreline, or threaten fragile shoreline ecosystems by locating new access points on the least sensitive portion of the site and providing mitigation so there is no net loss of shoreline function.**
- Policy S-7. Ensure the development of upland areas such as parking facilities and play areas, as well as the development of in-water and nearshore structures, such as docks and swimming areas, are located and designed in accordance with mitigation sequencing and result in no net loss of ecological function.**

SHORELINE

**Policy S-8.** Access should be provided for a range of users including pedestrians, bicyclists, boaters and people with disabilities to the greatest extent feasible.

**Policy S-9.** 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.

**Recreation**

**Policy S-10.** The City should pursue additional public access to the shoreline for recreational uses.

**Policy S-11.** Coordinate with Camp McCullough to allow opportunities for public water-oriented recreation on Pipe Lake in the event of future development and conversion to a non-recreational use.

**Policy S-12.** Encourage federal, state, and county government to acquire additional shoreline properties for public recreational uses.

**Policy S-13.** Ensure existing and proposed recreational uses are of a safe and healthy nature and do not adversely affect the integrity and character of the shoreline, or threaten fragile shoreline ecosystems.

**Policy S-14.** Consider both active and passive recreational needs in development of public shoreline access areas.

**Circulation**

- Policy S-15.** Locate land circulation systems as far from the land-water interface as feasible to reduce interference with either natural shoreline resources or other appropriate shoreline uses, except when necessary to provide for appropriate public access to the shoreline. Where possible avoid creating barriers between adjacent uplands and the shoreline.
- Policy S-16.** Encourage the use of bicycles, walking and transit for general access to the shoreline and improve and expand associated facilities and connections to the shoreline.
- Policy S-17.** When new transportation development occurs in shoreline areas, acquire and develop physical and visual public access to the shoreline where topography, view and natural features warrant.
- Policy S-18.** New stream crossings associated with transportation should be minimized. Where necessary culverts or bridges should be designed to provide for stream functions such as fish passage and accommodate the flow of water, sediment and woody debris during storm events.

**Conservation**

- Policy S-19.** Protect shoreline process and ecological functions through regulatory and non-regulatory means that may include acquisition of key properties, conservation easements, regulation of development within the shoreline jurisdiction, and incentives to encourage ecologically sound design.
- Policy S-20.** Reclaim and restore areas which are biologically and aesthetically degraded to the greatest extent feasible while maintaining appropriate use of the shoreline.
- Policy S-21.** Preserve the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.
- Policy S-22.** Preserve and restore native vegetation along the shoreline.
- Policy S-23.** Work with the Bonneville Power Administration to develop a more ecologically sound bank treatment than the current riprap on Jenkins Creek and add vegetation adjacent to the stream channel to widen the effective buffer.
- Policy S-24.** Within the Shoreline Residential Environment low impact development (LID) techniques, such as minimizing effective impervious surfaces, infiltration of run-off, use of green roofs and pervious pavers, and other techniques shall be encouraged.



**Policy S-25.** Encourage Pipe Lake property owners to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices by providing incentives, information, and other assistance.

**Uses**

**Policy S-26.** New residential development should be designed to protect existing shoreline water views, promote public safety, and avoid adverse impacts to shoreline habitats.

**Policy S-27.** All development and redevelopment activities within the City's shoreline jurisdiction should be designed to ensure public safety, enhance public access, protect existing shoreline and water views and achieve no net loss of shoreline ecological functions.

**Policy S-28.** Low Impact Development (LID) and "Green Building" practices, such as those promulgated under the Leadership in Energy and Environmental Design (LEED) and Green Built programs should be encouraged and in some cases required for new development within the shoreline jurisdiction.

**Policy S-29.** Proposed shoreline uses should not infringe upon the rights of others or upon the rights of private ownership.

**Policy S-30.** Water oriented uses shall be given preference over non-water oriented uses.

SHORELINE

**Policy S-31.** Encourage shoreline uses which enhance their specific areas or employ innovative features for purposes consistent with this program.

**Policy S-32.** Encourage restoration of shoreline areas that have been degraded or diminished in ecological value and function as a result of past activities or catastrophic events.

*History, Culture, Science, and Education*

**Policy S-33.** Prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value.

**Policy S-34.** Encourage educational projects and programs that foster a greater appreciation of the importance of shoreline management, maritime activities, environmental conservation and maritime history.

**Policy S-35.** Allow scientific equipment in shoreline areas for monitoring aquatic resources, water quality and other natural features as needed.

**Policy S-36.** Ensure that new development is compatible with existing historic structures and cultural areas.

*Flood Hazard Management*

**Policy S-37.** Seek regional solutions to flooding problems through coordinated planning with county, state and federal agencies, other appropriate interests and the public.





**Policy S-38.** Work with federal, state and regional entities and affected Indian Tribes to provide additional analysis and mapping/refinement of flood hazard areas.

**Policy S-39.** Ensure that flood hazard protection projects have a positive environmental benefit that emphasizes long-term solutions over short-term solutions.

### ***Medium Intensity Environment Management Policies***

**Policy S-40.** Fully utilize the existing Medium Intensity area before any expansion of this Environment Designation is allowed.

**Policy S-41.** New development shall include environmental clean up and restoration to comply with relevant state and federal laws.

**Policy S-42.** Visual and physical public access shall be required for all new non-residential development, if feasible.

**Policy S-43.** Implement sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers to control aesthetic impacts.

**Policy S-44.** Prioritize water-dependent, water-related, and water enjoyment uses over non-water oriented uses. Where non-water oriented uses are allowed consistent with the underlying zoning, public access shall be provided for new development. Residential uses are allowed.



SHORELINE

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## ACTION PLAN

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The Shoreline Element is implemented through administration of the City's SMP. Similar to other elements of the Comprehensive Plan, the City would reevaluate the SMP and consider appropriate revisions every eight years.

### Exhibit S-3. Shoreline Element Action Plan

Implementation Action	Responsibility
Implement SMP and evaluate consistent with GMA review cycles.	Community Development Department

**Chapter 16.05**  
**SHORELINE MASTER PROGRAM**

Sections:

Article I. General Provisions

- 16.05.010 Title.
- 16.05.020 Purpose.
- 16.05.030 Definitions.
- 16.05.040 Applicability.
- 16.05.050 Exemptions.
- 16.05.060 Relationship to other plans and regulations.

Article II. Administration

- 16.05.070 Purpose.
- 16.05.080 Program Administrator.
- 16.05.090 Shoreline permit procedures.
- 16.05.100 Nonconforming uses, structures, and development.
- 16.05.110 Enforcements and penalties.
- 16.05.120 Moratoria authority and requirements.
- 16.05.130 Amendments to the Master Program and periodic review.
- 16.05.140 Severability.

Article III. Shoreline Environments

- 16.05.150 Establishment of shoreline environment designations.
- 16.05.160 High-Intensity Environment.
- 16.05.170 Medium-Intensity Environment.
- 16.05.180 Shoreline Residential Environment.
- 16.05.190 Urban Conservancy Environment.
- 16.05.200 Aquatic Environment.
- 16.05.210 Environment designation interpretation.

Article IV. General Shoreline Regulations

- 16.05.220 Archaeological and historic resources.
- 16.05.230 Environmental protection and critical areas.
- 16.05.240 Public access.
- 16.05.250 Vegetation management.
- 16.05.260 Water quality, stormwater, and non-point pollution.
- 16.05.270 Flood hazard management.

Article V. Specific Shoreline Use Regulations

- 16.05.280 General shoreline use standards.
- 16.05.290 Agriculture.
- 16.05.300 Aquaculture.
- 16.05.310 Boating facilities.
- 16.05.320 Commercial development.
- 16.05.330 Industrial development.
- 16.05.340 In-stream structural development.
- 16.05.350 Recreational development.
- 16.05.360 Residential development.

- 16.05.370 Signs.
- 16.05.380 Transportation facilities.
- 16.05.390 Utilities.

#### Article VI. Shoreline Modification Regulations

- 16.05.400 General shoreline modification standards.
- 16.05.410 Shoreline stabilization.
- 16.05.420 Dredging and dredge spoil disposal.
- 16.05.430 Fill and excavation.
- 16.05.440 Overwater structures.
- 16.05.450 Shoreline habitat and ecological enhancement.

#### Article I. General Provisions

##### **16.05.010 Title.**

Chapter 16.05 CMC, in combination with Element 9 of the City of Covington Comprehensive Plan, shall be known and may be cited as the City of Covington Shoreline Master Program. Code provisions within this chapter may refer to it as “this SMP” or “this Master Program.”

##### **16.05.020 Purpose.**

The purposes of this Master Program are:

- (1) To carry out the responsibilities imposed on the City of Covington by the Washington State Shoreline Management Act (RCW 90.58);
- (2) To promote the public health, safety, and general welfare, by providing a guide and regulation for the future development of the shoreline resources of the City of Covington; and
- (3) To further, by adoption, the policies of RCY 90.58, and the goals of this Master Program, as set forth in Element 9 of the City of Covington Comprehensive Plan.

##### **16.05.030 Definitions.**

This section contains definitions of terms that apply within shoreline jurisdiction. The definitions in this section supplement the terms defined in the Shoreline Management Act (RCW 90.58). Unless otherwise defined in this chapter, the definitions provided in Chapter 18.20 CMC shall be applicable. If there is a conflict, the definitions in this section shall govern.

- (1) “Adjacent lands” means lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). 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 (see Chapter 90.58.340 RCW).
- (2) “Administrator” means the City Community Development Director or his/her designee, charged with the responsibility of administering the shoreline master program.
- (3) “Agriculture” or “Agricultural activity” 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 facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.
- (4) “Anadromous fish” means species, such as salmon, which are born in fresh water, spend a large part of their lives in the sea, and return to freshwater rivers and streams to procreate.

- (5) "Appurtenance" means a structure or development which is necessarily connected to the use and enjoyment of a single family residence and is located landward of the ordinary high water mark and also of the perimeter of any wetland. (On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field, and grading which does not exceed two hundred fifty cubic yards (250) [except to construct a conventional drain field] and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark) (see WAC 173-27-040(2)(g)).
- (6) "Aquaculture" means the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery.
- (7) "Associated wetlands" means those wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act. Refer to WAC 173-27-030(1).
- (8) "Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure; provided that in case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure (WAC 173-27-030(3)).
- (9) "Beach enhancement/restoration" means the process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation, drift sills and other nonintrusive means as applicable.
- (10) "Boat launch or ramp" means graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.
- (11) "Boat lift" means a mechanical device that can hoist vessels out of the water for storage. These devices are usually located along a pier.
- (12) "Boat rail or railway" means a set of steel rails running from the upland area into the water upon which a cart or dolly can carry a boat to be launched.
- (13) "Boathouse" means a structure designed for storage of vessels located over water or upland. Boathouses should not be confused with "houseboats."
- (14) "Boating facility" means a moorage structure serving more than four single-family residences.
- (15) "Bulkhead" means a vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.
- (16) "Community structure" means a building, dock, or other structure which is intended for the common use of the residents of a particular subdivision or community. It is not intended to serve as a public facility.
- (17) "Conditional use" means a use, development, or substantial development that is classified as a conditional use or is not classified within the applicable master program. Refer to WAC 173-27-030(4).
- (18) "Cumulative impact" means the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.
- (19) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any state of water level (RCW 90.58.030(3d)). Development does not include dismantling or removing structures if there is no other associated development or redevelopment.

- (20) “Dock” means a structure commonly referred to as a floating moorage structure. See also “fixed-pile pier,” “floating dock,” and “float.”
- (21) “Dredge spoil” means the material removed by dredging. Same as dredge material.
- (22) “Dredging” means excavation or displacement of the bottom or shoreline of a water body. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for shellfish harvesting or for cleanup of polluted sediments.
- (23) “Ecological functions” means 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.
- (24) “Ecosystem-wide processes” means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.
- (25) “Ell” means the terminal section of a pier which typically extends perpendicular to the pier walkway. These sections can be either on fixed-piles or floating docks and are typically wider than the pier walkway.
- (26) “Emergency” means an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the master program. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3eiii) and WAC 173-27-040(2d)).
- (27) “Enhancement” means alteration of an existing resource to improve or increase its characteristics and processes without degrading other existing functions.
- (28) “Exemption” means certain specific developments are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local master program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit (RCW 90.58.030(3e); WAC 173-27-030(7) and -040). For a complete list of exemptions, see CMC 16.05.050.
- (29) “Fair market value” means the expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, drilling, dumping, or filling, the fair market value is the expected cost of hiring a contractor to perform the operation or where no such value can be calculated, the total of labor, equipment use, transportation and other costs incurred for the duration of the permitted project (WAC 173-27-030(8)).
- (30) “Fill” means the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the ordinary high water mark, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.
- (31) “Finger pier” means a narrow extension to a fixed-pile pier, usually extending perpendicular to the pier walkway along with an ell to form an enclosed area for boat moorage.
- (32) “Float” means a floating structure that is moored, anchored, or otherwise secured in the water offshore and that is generally located at the terminal end of a fixed-pile pier.
- (33) “Floating dock” means a fixed structure floating upon a water body for the majority of its length and connected to shore.
- (34) “Floating home” means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

(35) “Floodway” means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

(36) “Forest practices” means activities not covered by the Forest Practices Act, especially Class IV – General forest practices involving conversion to non-forest use.

(37) “Groin” means a barrier-type structure extending from, and usually perpendicular to, the backshore into a water body. Its purpose is to protect a shoreline and adjacent upland by influencing the movement of water and/or deposition of materials. This is accomplished by building or preserving an accretion beach on its updrift side by trapping littoral drift. A groin is relatively narrow in width but varies greatly in length. A groin is sometimes built in a series as a system and may be permeable or impermeable, high or low, and fixed or adjustable.

(38) “Height” means the distance measured from the average grade level to the highest point of a structure: provided, that television antennas, chimneys and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines: provided further, that temporary construction equipment is excluded in this calculation (WAC 173-27-030(9)).

(39) “In-kind replacement” means to replace wetlands, habitat, biota or other organisms with substitute flora or fauna whose characteristics closely match those destroyed, displaced or degraded by an activity.

(40) “Landfill” means the creation of, or addition to, a dry upland area (landward of the OHWM) or the creation of, or addition to, an in-water area (waterward of the OHWM) by depositing material into waters or onto shoreline, upland dry areas, or wetland areas.

(41) “Launching rail” – see “Boat railway.”

(42) “Launching ramp” – see “Boat launch or ramp.”

(43) “Liberal construction” means a legal concept instructing parties interpreting a statute to give an expansive meaning to terms and provisions within the statute. The goal of liberal construction is to give full effect in implementing a statute’s requirements. See RCW 90.58.900.

(44) “Littoral drift” means the movement of mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

(45) “Mitigation” or “mitigation sequencing” means the process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal. See WAC 197-11-768 and WAC 173-26-020 (30). Mitigation or mitigation sequencing means the following sequence of steps listed in order of priority, with (a) of this subsection being top priority:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations;
- (e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;  
and
- (f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

(46) “Moorage” means any device or structure (such as a pier or buoy) used to secure a vessel for temporary anchorage.

(47) “Moorage piles” means structural members that are driven into the lake bed to serve as a stationary moorage point. They are typically used for moorage of small boats in the absence of, or instead of, a dock or pier. In some cases, moorage piles may be associated with a dock or pier.

(48) “Mooring buoy” means a floating object anchored to the bottom of a water body that provides tie up capabilities for vessels.

(49) “Native plants” or “native vegetation” means plants that occur naturally, and that distribute and reproduce without aid. Native plants in western Washington are those that existed prior to intensive settlement that began in the 1850s.

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

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

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

(53) “Normal maintenance” means those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040(2b)). See also “normal repair.”

(54) “Normal protective bulkhead” means a bulkhead, common to single family residences, constructed at or near the ordinary high water mark to protect an existing single family residence, and which sole purpose is for protecting land from erosion, not for the purpose of creating new land (WAC 173-27-040(2c)).

(55) “Normal repair” means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment (WAC 173-27-040(2b)). See also “normal maintenance.”

(56) “Ordinary high water mark” means that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(11).

(57) “Overwater structure” means any device or structure projecting above and waterward of the ordinary high water mark, including, but not limited to piers, docks, floats, and moorage.

(58) “Permit” or “shoreline permit” means any substantial development permit, variance, or conditional use permit, or revision, or any combination thereof, authorized by the Act. Refer to WAC 173-27-030(13).

(59) “Public access” means the ability of the general public to reach, touch, and enjoy the water’s edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Refer to WAC 173-26-221(4).

(60) “Public interest” means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030(14)).



- (61) "Public use" means to be made available daily to the general public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis. Refer to WAC 332-30-106.
- (62) "Qualified professional" or "professional" means a person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise and/or certification appropriate for the relevant subject. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field and, unless otherwise specified in this Master Program, must have at least two years of related work experience.
- (63) "Recreational facilities" means facilities such as parks, trails, and pathways that provide a means for relaxation, play, or amusement. For the purposes of this Master Program, recreational facilities are divided into two categories:
- (a) Water-dependent (e.g. boating facilities, fishing piers, swim rafts); and
  - (b) Non-water-dependent (e.g. sports fields, golf courses, RV camping).
- (64) "Recreational float" means a floating structure that is moored, anchored, or otherwise secured in the water offshore and that is generally used for recreational purposes such as swimming and diving.
- (65) "Restoration" means the act of revitalizing or restoring characteristics and processes of a shoreline, ecosystem, or habitat diminished or lost by past alterations, activities, or catastrophic events.
- (66) "Retrieval lines" means a system by which a float or other floating object is retrieved to a pier, dock, or shoreland.
- (67) "Rotovating" means an aquatic vegetation harvesting technique that uses rototilling technology to uproot and remove plants.
- (68) "Setback" means the minimum required distance between a structure and a specified line, such as a lot, easement or buffer line or the ordinary high water mark, that is required to remain free of structures.
- (69) "Shorelands" or "shoreland areas" means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetland and river deltas associated with the streams and lakes which are subject to the provision of the Shoreline Management Act. Shorelands in the City of Covington include areas within 200 feet of the ordinary high water mark of shoreline jurisdiction waters and associated wetlands within shoreline jurisdiction. Optional buffers for critical areas are not included in shoreline jurisdiction. Only portions of the floodplain are included in shoreline jurisdiction, including the mapped floodway of Big Soos Creek and contiguous floodplain areas landward 200 feet are also encompassed within the shoreland area. Some additional flood plain areas are included in the Jenkins Creek SMA beyond the statutory minimum because they are located in wetland areas, which are included under mandatory provisions. Waters identified within jurisdiction include portions of Big Soos Creek, portions of Jenkins Creek, and the portion of Pipe Lake located within the City limits.
- (70) "Shoreline environment designations" means the categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.
- (71) "Shoreline jurisdiction" means all of the geographic areas covered by the SMA, related rules and the applicable master program, and such areas within a specified local government's authority under the SMA. Shorelands in the City of Covington include areas within 200 feet of the ordinary high water mark (OHWM) of shoreline jurisdiction waters, floodways, associated floodplain areas landward 200 feet from such floodways and associated wetlands. Waters identified within jurisdiction include portions of Big Soos Creek, portions of Jenkins Creek, and the portion of Pipe Lake located within the City limits. The mapped floodway of Big Soos Creek, contiguous floodplain areas landward 200 feet from such floodways, and associated wetlands are specifically encompassed within the shoreland area. Jenkins Creek does not have a mapped floodway, but floodplain areas within 200 feet of the OHWM and associated wetlands are included in shoreline jurisdiction. Within both Jenkins Creek and Big Soos Creek, additional floodplain areas beyond the statutory minimum are included because they are located in wetland areas. However, the

entire floodplain is not included and wetland buffers are not included. See also “shorelands,” “shorelines,” “shorelines of the state,” “shorelines of statewide significance,” and “associated wetlands.”

(72) “Shoreline Management Act” or “Act” means Chapter 90.58 RCW, or as amended.

(73) “Shoreline stabilization” means actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind or wave action. These actions include structural and nonstructural methods. For the purposes of this SMP, new stabilization measures include enlargement of existing stabilization measures.

(74) “Shorelines” means 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 segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

(75) “Shorelines Hearings Board” means a state-level quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government on Washington State Department of Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA. See RCW 90.58.170; 90.58.180.

(76) “Shorelines of statewide significance” means a select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special preservationist policies apply and where greater planning authority is granted by the SMA. Permit review must acknowledge the use priorities for these areas established by the SMA. See RCW 90.58.020. Covington does not have any shorelines of statewide significance.

(77) “Shorelines of the state” means “shoreline jurisdiction,” or the total of all “shorelines” and “shorelines of statewide significance” within the state.

(78) “Single-family residence” means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance (WAC 173-27-040(2g)).

(79) “Stream” means a naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty cubic feet per second and b) the water is contained within a channel (WAC 173-22-030(8)).

(80) “Structure” means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels (WAC 173-27-030(15)).

(81) “Substantial development” means any development of which the total cost or fair market value exceeds seven thousand forty-seven dollars(\$7,047), or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. “Consumer price index” means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. A list of activities and developments that shall not be considered substantial development is provided in RCW 90.58.030(3)(e).

(82) “Upland” means the dry land area above and landward of the ordinary high water mark.

(83) “Variance” or “shoreline variance” means an approval mechanism to grant relief from the specific bulk, dimensional or performance standards specified in the applicable master program. Variance permits must be

specifically approved, approved with conditions, or denied by the Washington State Department of Ecology (See WAC 173-27-170).

(84) “Water-dependent use” means a use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

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

(86) “Water-oriented use” means any combination of water-dependent, water-related, and/or water enjoyment uses, and along with single family residences, serves as an all-encompassing definition for priority uses under the SMA. Non-water-oriented serves to describe those uses which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Examples include professional offices, automobile sales or repair shops, mini-storage facilities, multifamily residential development, department stores and gas stations.

(87) “Water-related use” means a use or a portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

(a) A functional requirement for a waterfront location exists, 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 commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent activities and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

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

(89) “Weir” means a low dam built across a stream to raise its level, divert its flow and/or measure its flow. Weirs have been used to address erosion and scouring of stream channels, but can also have negative impacts depending on how they are constructed, e.g. detrimental impacts on fish habitat conditions.

**16.05.040 Applicability.**

(1) This chapter applies to all uses and development occurring within the shoreline jurisdiction of the City of Covington, as defined in RCW 90.58.030 and CMC 16.05.030. This includes:

(a) Rivers and streams with more than twenty (20) cubic feet per second mean annual flow;

(b) Lakes and reservoirs 20 acres or greater in area;

(c) Associated wetlands;

- (d) Shorelands adjacent to these water bodies, typically within 200 feet of the ordinary high water mark; and
- (e) Floodways and contiguous floodplain areas extending 200 feet from the floodway.

(2) Within the City of Covington, the following waters are considered “shoreslines of the state” and are subject to the provisions of this Master Program. Where applicable, the upstream extent of shoreline jurisdiction for each waterbody, by section, township, and range, is included in parentheses:

- (a) Big Soos Creek (T22N R5E S35);
- (b) Jenkins Creek (T22N R5E S36); and
- (c) Pipe Lake.

(3) Official Shorelines Map.

(a) Shoreline jurisdiction boundaries are depicted on the Official Shorelines Map, adopted at the time of adoption of this Master Program and included in the Shoreline Element of the City of Covington Comprehensive Plan.

(b) The shoreline jurisdiction boundaries depicted on the Official Shorelines Map are approximate and are to be used for guidance only. They shall be used in conjunction with site-specific field investigation in order to determine the actual boundary of shoreline jurisdiction. Whether or not they are mapped, all areas meeting the definition of a shoreline of the state shall be subject to the provisions of this Master Program. Conversely, any property shown on the Official Shorelines Map as within shoreline jurisdiction, but that does not meet the criteria for shoreline jurisdiction as defined in subsection (1) of this section, shall not be subject to the provisions of this Master Program.

(c) The actual location of the ordinary high water mark, floodplain, floodway, and wetland boundaries, where applicable, shall be determined at the time a development is proposed. Wetland boundary and ordinary high water mark determinations shall be valid for five (5) years from the date the determination is made. Floodplain and floodway boundaries shall be assessed using FEMA maps or the most current technical information available.

**16.05.050 Exemptions and exceptions.**

(1) Developments exempt from permit requirements.

(a) Certain developments are exempt from the requirement to obtain a substantial development permit. Developments that are exempt from the requirement for a substantial development permit are identified in WAC 173-27-040, or as subsequently amended. Developments that are exempt from the requirement to obtain a substantial development permit still require a letter of exemption consistent with CMC 16.05.090. Such developments may also still require a variance or conditional use permit, and all development within the shoreline is subject to the substantive standards of this SMP, regardless of whether a substantial development permit is required.

(b) Certain developments that are exempt from all permit requirements under the Shoreline Management Act are identified in WAC 173-27-044, or as subsequently amended. These developments are exempt from the requirement to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review conducted by the City of Covington to implement this chapter.

(2) Developments and lands not subject to the Shoreline Management Act. The Shoreline Management Act, and the provisions of this SMP, do not apply to the following:

(a) Developments identified in WAC 173-27-045, or as subsequently amended; and

(b) Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes. Those nonfederal lands lying within the exterior boundaries of federal lands and those federal

lands leased to other persons, which fall within the definition of shorelands, shall be subject to the Shoreline Management Act and this SMP.

**16.05.060 Relationship to other plans and regulations.**

(1) The permitting process for a shoreline development or use does not exempt an applicant from complying with any other local, state, regional, or federal statutes or regulations which may also be applicable to such development or use. Plans and policy documents that shall be considered in Covington include, but are not limited to, the Covington Comprehensive Plan and the King County Surface Water Design Manual. Proposals shall also comply with the regulations developed by the City to implement its plans, such as the zoning and building codes, which are codified in other chapters of the CMC.

(2) Relationship to Critical Areas Regulations.

(a) For protection of critical areas where they occur in shoreline jurisdiction, this Master Program adopts by reference the City's Critical Areas Ordinance (Chapter 18.65 CMC), as subsequently amended, which is incorporated into this Master Program with specific exclusions and modifications in CMC 16.05.230.

(b) Pursuant to WAC 173-26-191(2)(b), amending the critical areas regulations referenced in the Master Program for those critical areas under shoreline jurisdiction will require an amendment to the Master Program and approval by the Washington State Department of Ecology (Department of Ecology).

(c) Within shoreline jurisdiction, the Critical Areas Ordinance shall be liberally construed together with this Master Program to give full effect to the objectives and purposes of this Master Program and Chapter 90.58 RCW.

(3) Should a conflict occur between the provisions of this SMP or between this SMP and the laws, regulations, codes, or rules promulgated by any other authority having jurisdiction within the City, the requirement which most supports the provisions of RCW 90.58.020 shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this SMP.

**Article II. Administration**

**16.05.070 Purpose.**

There is hereby established an administrative system designed to:

- (1) Assign responsibilities for implementation of this Master Program;
- (2) Prescribe an orderly process by which to review proposals and permit applications; and
- (3) Ensure that all persons affected by this Master Program are treated in a fair and equitable manner.

**16.05.080 Program Administrator.**

(1) The Community Development Director or designee is vested with:

(a) Overall responsibility for administering the Shoreline Management Act and this Master Program as the Shoreline Administrator;

(b) Authority to approve, approve with conditions, or deny shoreline permit revisions in accordance with the policies and provisions of this Master Program; and

(c) Authority to grant letters of exemption from shoreline substantial development permits in accordance with the policies and provisions of this Master Program.

(2) The duties and responsibilities of the Shoreline Administrator shall include:

(a) Preparing and using application forms deemed essential for the administration of this Master Program;

- (b) Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this Master Program;
- (c) Making administrative decisions and interpretations of the policies and regulations of this Master Program and the Shoreline Management Act;
- (d) Collecting applicable fees, as established by the City in CMC 16.05.050;
- (e) Determining that all applications and necessary information and materials are provided;
- (f) Conducting field inspections, as necessary;
- (g) Reviewing, insofar as possible, all provided and related information deemed necessary for appropriate applications needs;
- (h) Determining if a shoreline substantial development permit, conditional use permit or variance permit is required;
- (i) Providing copies of permit applications to relevant staff and agencies for review and comment;
- (j) Conducting a thorough review and analysis of shoreline exemption applications; reviewing other staff and agency comments; making written findings and conclusions; and approving, approving with conditions, or denying such exemptions;
- (k) Conducting a thorough review and analysis of shoreline substantial development permit applications; reviewing other staff and agency comments; making written findings and conclusions; and approving, approving with conditions, or denying such permits;
- (l) Submitting shoreline variance and conditional use permit applications and written recommendations and findings on such permits to the City's Hearing Examiner for their consideration and action;
- (m) Submitting shoreline redesignation permit applications and written recommendations and findings on such permits to the City Council;
- (n) Assuring that proper notice is given to appropriate persons and the public for all hearings;
- (o) Providing technical and administrative assistance to the City's Hearing Examiner and City Council as required for effective and equitable implementation of this program and the Act;
- (p) Investigating, developing, and proposing amendments to this Master Program as deemed necessary to more effectively and equitably achieve its goals and policies;
- (q) Seeking remedies for alleged violations of this program, the provisions of the Act and this Master Program or of conditions of any approved shoreline permit issued by the City of Covington;
- (r) Acting as the primary liaison between local and state agencies in the administration of the Shoreline Management Act and this Master Program; and
- (s) Forwarding shoreline permits to the Department of Ecology for filing or action, consistent with CMC 16.05.090.

**16.05.090 Shoreline permit procedures.**

(1) Permit required.

- (a) A substantial development shall not be undertaken within the jurisdiction of the SMA, Chapter 90.58 RCW, and this Master Program unless a shoreline substantial development permit has been obtained and the appeal period has been completed and any appeals have been resolved and/or the applicant has been given permission to proceed by the proper authority.

(b) Unless specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction shall conform to Chapter 90.58 RCW, the Shoreline Management Act and this Master Program whether or not a permit is required.

(2) Permit submittal process.

(a) Applicants shall apply for shoreline substantial development, variance, and conditional use permits on forms provided by the City.

(b) Completed application documents for all shoreline permits shall be submitted to the Administrator for processing and review. Any deficiencies in the application or document shall be corrected by the applicant prior to further processing.

(c) Application fees in an amount set forth in the current fee resolution shall be paid to the City of Covington at the time of application. Fees shall include but not be limited to cost recovery for engineering and planning review time, site inspection time, administration, third-party peer review, and any other special costs attributable to the shoreline master program review process.

(3) Public notice.

(a) A notice of application shall be issued for shoreline permit applications as provided for in CMC 14.35.040 and permit notice shall occur pursuant to Chapter 14.40, as amended, except that the public comment period for a substantial development permit, variance, or conditional use shall be no less than thirty (30) days.

(b) The City shall send a notice of application to the Muckleshoot Tribe Fisheries Division for all projects seeking approval under the SMP, including shoreline exemptions.

(c) The Administrator shall be responsible for delivering the legal notice containing the information required by WAC 173-27-110 to the newspaper to be published at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within the area in which the development is proposed. Advertising costs shall be the responsibility of the applicant.

(4) Shoreline Exemption – Letter of Exemption

(a) Purpose and applicability.

(i) Any person claiming exemption from the shoreline substantial development permit requirements under CMC 16.05.050(1)(a) shall make an application to the Shoreline Administrator for a letter of exemption.

(ii) If any part of a proposed development is not eligible for exemption, then a shoreline substantial development permit is required for the entire proposed development.

(b) Letter of Exemption.

(i) If the exemption is approved, the Shoreline Administrator shall prepare and transmit a Letter of Exemption (LOE), addressed to the applicant and Department of Ecology, indicating the specific applicable exemption provisions from WAC 173-27-040 and providing a summary of the project's consistency with this Master Program and the Act. A copy of the LOE shall be maintained on file by the City.

(ii) The Shoreline Administrator may attach conditions and/or mitigating measures to the LOE to achieve consistency and compliance with the provisions of this Master Program and the Act.

(5) Shoreline Substantial Development Permit.

(a) Purpose and applicability. Unless exempted under CMC 16.06.050 of this Master Program or otherwise classified by this Master Program as requiring a shoreline conditional use permit, uses that are classified or set forth as permitted uses in the Master Program shall require authorization under a shoreline substantial development permit.

(b) Review criteria. Uses that are classified or set forth as permitted uses in the Master Program may be authorized, provided the applicant demonstrate consistency with all of the following substantial development criteria, as listed in WAC 173-27-150:

- (i) Consistency with the policies and procedures of the Shoreline Management Act;
- (ii) Consistency with the provisions of WAC 173-27; and
- (iii) Consistency with this Master Program.

(6) Shoreline Conditional Use Permit.

(a) Purpose and applicability.

- (i) The purpose of a conditional use permit is to provide a system within the Master Program that allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020.
- (ii) In authorizing a conditional use, special conditions may be attached to the permit by the City of Covington or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and the Master Program.
- (iii) Uses that are not classified or set forth in this 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.
- (iv) Uses that are specifically prohibited by this Master Program may not be authorized with the approval of a conditional use permit.

(b) Review criteria.

- (i) Uses that are classified or set forth as conditional uses in the Master Program may be authorized, provided the applicant demonstrate consistency with all of the following conditional use criteria, as listed in WAC 173-27-160:
  - (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 this 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.
- (ii) 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.

(7) Shoreline Variance.

(a) Purpose and applicability.



(i) The purpose of a variance permit is strictly limited to granting relief to specific bulk dimensional, or performance standards set forth in the Master Program, and where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020.

(ii) These provisions should be applied in a manner which, while protecting the environment, will assure that a person will be able to use his/her property in a fair and equitable manner.

(iii) Variances from the use regulations of this Master Program are prohibited.

(b) Application requirements.

(i) An application for a shoreline variance shall be submitted on a form provided by the City accompanied by maps, completed environmental checklist, applicable fees, and any other information specified in this Master Program or requested by the Administrator.

(ii) An applicant for a substantial development permit who wishes to request a variance shall submit the variance application and the substantial development permit application simultaneously.

(c) Review criteria.

(i) Variance permits for development that will be located landward of the ordinary high water mark and landward of any wetland may be authorized provided the applicant can demonstrate consistency with the following variance criteria, as listed in WAC 173-27-170:

(A) That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes, or significantly interferes with, reasonable use of the property;

(B) That the hardship described above is specifically related to the property, and is the result of unique condition such as irregular lot shape, size, or natural features and the application of the Master Program and not, for example, from deed restrictions or the applicant's own actions;

(C) That the design of the project is compatible with other permitted activities within the area and with uses planned for the area under the Comprehensive Plan and Master Program and will not cause adverse impacts to the shoreline environment;

(D) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;

(E) That the variance requested is the minimum necessary to afford relief; and

(F) That the public interest will suffer no substantial detrimental effect.

(ii) Variance permits for development and/or uses that will be located waterward of the ordinary high water mark or within any wetland may be authorized provided the applicant can demonstrated consistency with the following variance criteria:

(A) That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes all reasonable use of the property;

(B) That the proposal is consistent with the criteria established under subsection (i) of this section; and

(C) That the public rights of navigation and use of the shorelines will not be adversely affected.

(iii) In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also

remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

(8) Permit review procedures.

(a) Shoreline exemptions are a Type 1 process application, shoreline substantial development permits are a Type 2 process application, shoreline conditional use permits and shoreline variances are a Type 3 process application and shoreline environment redesignations are a Type 4 process application. All applications shall be processed in accordance with the applicable regulations of Chapter 14.30 and Chapter 14.35 SMC, as amended.

(b) Administrator review.

(i) The burden of proving that a proposed development is consistent with the approval criteria and Master Program policies and regulations rests with the applicant.

(ii) The Shoreline Administrator shall make recommendations in the case of variance and conditional use permits, and decisions in the case of substantial development permits, exemptions, or requests for revisions to approved permits based upon: (1) the policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative Code; and (2) this SMP.

(c) Hearing Examiner review.

(i) The Covington Hearing Examiner shall make the final decision at the local level for conditional use and variance and shoreline redesignation applications.

(ii) The Covington Hearing Examiner shall review the recommendations prepared by the Covington Shoreline Administrator and make the final decision to approve, approve with conditions, or deny the permit applications based upon: (1) this SMP; (2) the policies and procedures of the Shoreline Management Act and related sections of the Washington Administrative code; (3) written and oral comments from interested persons; and (4) reports from the Shoreline Administrator. The Hearing Examiner is subject to the procedures and requirements contained in Chapters 2.25, 14.30, 14.35, 14.40, and 14.45 CMC, as amended.

(d) Washington State Department of Ecology review.

(i) After City approval of a conditional use or variance permit, the City shall submit the permit to the Department of Ecology for approval, approval with conditions, or denial. The Department of Ecology shall render and transmit to the City and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty (30) days of the date of submittal by the City pursuant to WAC 173-27-110.

(ii) The Department of Ecology shall review the complete file submitted by the City on conditional use and variance permits and any other information submitted or available that is relevant to the application. The Department of Ecology shall base its determination to approve, approve with conditions or deny a conditional use permit or variance on consistency with the policy and provisions of the Shoreline Management Act and, except as provided in WAC 173-27-210, the criteria in WAC 173-27-160 and 173-27-170. The City and the Department of Ecology may, in addition, apply the more restrictive criteria where they exist in the shoreline master programs.

(iii) The City shall provide timely notification of the Department of Ecology's final decision to those interested persons having requested notification from the City pursuant to WAC 173-27-130.

(9) Financial guarantee. To guarantee that conditions imposed in conjunction with permit approval are completed, the City may require the applicant to post a performance bond or other financial guarantee in an amount satisfactory to the City. Any such bond or guarantee shall be from a reputable bonding company in a form acceptable to the City Attorney.

(10) Timing and duration.

(a) Commencement of activity. If a permit is approved, the applicant or any other party authorized to conduct activities or uses by the decision shall not begin construction, development, or any authorized use or activity until after the fourteen (14) day appeal period is over and any appeals concluded. Construction or use may occur during the time a court appeal is underway provided: (1) the permit was approved by the local government and the State of Washington Shorelines Hearing Board and (2) permission is granted for the construction, use or activity under RCW 90.58.140(5)(b) or its successor.

(b) Duration of permits. The time requirements of this section shall apply to all substantial development permits and to any development authorized pursuant to a variance or conditional use permit authorized by this chapter. Upon a finding of good cause, based on the requirements and circumstances of the project proposed and consistent with the policy and provisions of this Master Program, the City may adopt different time limits from those set forth in subsections (i) and (ii) of this section as a part of action on a substantial development permit.

(i) Construction activities shall be commenced or, where no construction activities are involved, the use or activity shall be commenced within two (2) years of the effective date of the permit.

(ii) Authorization to conduct development activities shall terminate five (5) years after the effective date of the permit: provided, that the City may authorize a single extension before the end of the time limit, if a request for extension has been filed before the expiration date and with prior notice to parties of record and the Department of Ecology, for up to one (1) year based on reasonable factors.

(iii) The running of a permit time period shall not include the time during which an activity was not actually pursued due to the pendency of reasonably related administrative appeals or legal action or due to the need to obtain any other government permits and approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

(iv) When permit approval is based on conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity: provided, that an alternative compliance limit may be specified in the permit.

(11) Revisions.

(a) When required. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the Master Program or the policies and provisions of chapter 90.58 RCW. Changes that are not substantive in effect do not require approval of a revision.

(b) Submittal materials. When an applicant seeks to revise a substantial development, conditional use, or variance permit, the Shoreline Administrator shall request from the applicant detailed plans and text describing the proposed changes.

(c) Administrator review.

(i) If the Shoreline Administrator determines that the proposed changes are within the scope and intent of the original permit, and are consistent with this Master Program and the Act, the Shoreline Administrator may approve a revision. "Within the scope and intent of the original permit" means the following:

(A) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less.

(B) Ground area coverage and height may be increased a maximum of ten percent from the provisions of the original permit.

- (C) The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of this Master Program except as authorized under a variance granted as the original permit or a part thereof.
  - (D) Additional or revised landscaping is consistent with any conditions attached to the original permit and with this Master Program.
  - (E) The use authorized pursuant to the original permit is not changed.
  - (F) No adverse environmental impact will be caused by the project revision.
- (ii) Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW and this Shoreline Master Program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.
  - (iii) If the sum of the revision and any previously approved revisions under former WAC 173-27-100 or this section violate the provisions in subsection (i) of this section, the City shall require that the applicant apply for a new permit.
- (d) Notice of decision.
- (i) The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section, shall be filed with the Department of Ecology. In addition, the Shoreline Administrator shall notify parties of record of their action.
  - (ii) If the revision to the original permit involves a conditional use or variance, the Shoreline Administrator shall submit the revision to the Department of Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. The Department of Ecology shall render and transmit to the Shoreline Administrator and the applicant its final decision within fifteen (15) days of the date of the Department of Ecology's receipt of the submittal from the Shoreline Administrator. The Shoreline Administrator shall notify parties of record of the Department of Ecology's final decision.
- (e) Effective date. The revised permit is effective immediately upon final decision by the Shoreline Administrator or, when appropriate under subsection F of this section, upon final action by the Department of Ecology.
- (12) Rulings to State. Any ruling on an application for a shoreline permit under authority of this Master Program, whether it is an approval or denial, shall, with the transmittal of the ruling to the applicant, be filed concurrently with the Department of Ecology. Filing shall occur in accordance with RCW 90.58.140(6) and WAC 173-27-130, as amended.
- (13) Appeals
- (a) Local appeals.
    - (i) Any decision made by the Administrator on an exemption, Master Program policy or regulation interpretation, permit revision, or other action within the responsibility of the Administrator, may be appealed by the applicant, private or public organization, or individual to the Hearing Examiner within fourteen (14) calendar days following the issuance of a written decision by the Administrator, or otherwise becomes effective.

(ii) Such appeals shall be initiated by filing with the Administrator a notice of appeal setting forth the action being appealed and the principal points upon which the appeal is based, together with a filing fee as prescribed by ordinance.

(b) Appeals to the State Shorelines Hearings Board.

(i) Any person aggrieved by the granting or denying of a substantial development permit, variance, or conditional use permit, the upholding of an exemption appeal, or by the rescinding of a permit pursuant to the provisions of this Master Program, may seek review from the State of Washington Shorelines Hearing Board by filing a request for the same within twenty-one (21) days of the date of filing as defined in subsection (ii) below and by concurrently filing copies of such request with the Department of Ecology and the Attorney General's office.

(ii) Consistent with RCW 90.58.140(6), the date of filing is defined as follows:

(A) For projects that only require a substantial development permit: the date that the Department of Ecology receives the City decision.

(B) For a conditional use permit or variance: the date that the Department of Ecology's decision on the conditional use permit or variance is transmitted to the applicant and the City.

(C) For shoreline substantial development permits simultaneously mailed with a conditional use permit or variance to the Department of Ecology: The date that the Department of Ecology's decision on the conditional use permit or variance is transmitted to the applicant and the City.

(iii) A copy of such appeal notice shall also be filed with the City of Covington Shoreline Administrator.

(iv) State Hearings Board regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC.

**16.05.100 Nonconforming uses, structures, and development.**

(1) Applicability. This section applies to nonconforming uses, development, structures, and lots, as defined in CMC 16.05.030 of this chapter.

(2) Nonconforming structures and development. Nonconforming structures and development shall be subject to the following provisions:

(a) Nonconforming structures used for a conforming use may continue as legal nonconforming structures and may be maintained and repaired.

(b) Nonconforming structures 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 structures or development, with the exception that improvements to nonconforming structures for the purpose of compliance with applicable accessibility regulations are not subject to this restriction.

(c) 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.

(d) A structure that is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon finding that the following conditions are met. Additional conditions may be attached to the permit as are deemed necessary to assure compliance with the following listed conditions, the requirements of the Master Program, and the Act, and to assure that the use will not become a nuisance or hazard:

(i) No reasonable alternative conforming use is practical; and

- (ii) The proposed use will be at least as consistent with the policies and provisions of the Act and the Master Program and as compatible with the uses in the area as the preexisting use.
- (e) A nonconforming structure that is moved any distance shall be brought into conformance with the Master Program and the Act.
- (f) If a nonconforming structure is damaged or destroyed by fire, explosion, or other casualty or act of God, to an extent not exceeding seventy-five (75) percent of the replacement cost of the original structure, such structure may be reconstructed or restored and the previous use activity continued subject to all other provisions of this section, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, and all permits are obtained and the restoration completed within two years of permit issuance.
- (g) Preexisting residential structures. Primary residential and appurtenant structures, located landward of the ordinary high water mark, that are classified as nonconforming structures under subsection (1) of this section, are considered conforming structures for the purpose of this Master Program, and shall be subject to the following provisions:
- (i) Enlargement or expansion that would not otherwise be allowed under this Master Program, by the addition of space to the main structure, or by the addition of space to an appurtenant structure, may be permitted if the following criteria are met:
- (A) The expansion does not extend farther waterward than the existing primary residential structure; and
- (B) Potential adverse impacts to shoreline ecological functions are mitigated in accordance with CMC 16.05.230 of this chapter.
- (ii) Proposed enlargements or expansions that do not meet the criteria in subsection (i) above shall require a variance pursuant to CMC 16.05.090(7) of this chapter.
- (iii) Bulkheads, overwater structures, and other shoreline modifications accessory to the preexisting residential structures shall be excluded from the provisions of this subsection.
- (3) Nonconforming uses. Nonconforming uses shall be subject to the following provisions:
- (a) Nonconforming uses may continue as legal nonconforming uses and may be repaired and maintained.
- (b) Nonconforming uses shall not be enlarged or expanded, except that nonconforming single-family residences classified as nonconforming uses and located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances upon approval of a conditional use permit.
- (c) A nonconforming use that is discontinued for twelve (12) consecutive months or for twelve months during any two (2) year period shall lose its nonconforming status and associated rights, and any subsequent use shall be conforming. It shall not be necessary to demonstrate an intent to abandon in order for the nonconforming rights to expire.
- (d) A use that is listed as a conditional use in this Master Program, but that existed prior to adoption of this Master Program, and for which a conditional use permit has not been obtained, shall be considered a nonconforming use.
- (4) Nonconforming lots. An undeveloped nonconforming lot located landward of the ordinary high water mark may be developed if permitted by other City land use regulations and provided that such development conforms to all other requirements of the Master Program and the Act.

**16.05.110 Enforcements and penalties.**

(1) The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, benefits that accrue to the violator, and the cost of obtaining compliance may also be considered.

(2) Enforcement. All provisions of the Master Program shall be enforced by the Shoreline Administrator and/or his/her designated representatives. For such purposes, the Shoreline Administrator or his/her duly authorized representative shall have the power of a police officer.

(3) Penalty. Any person found to have willfully engaged in activities on the City's shorelines in violation of the Shoreline Management Act of 1971 or in violation of the City's Master Program, rules or regulations adopted pursuant thereto, is guilty of a gross misdemeanor, and shall be subject to the penalty provisions of the Covington Municipal Code (civil citation penalties and criminal penalties).

(4) Violator's Liability. Any person subject to the regulatory program of the Master Program who violates any provision of the Master Program or permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The Attorney General or Covington attorney shall bring suit for damages under this section on behalf of the State or City governments. If liability has been established for the cost of restoring an area affected by a violation, the court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorneys' fees and costs of the suit to the prevailing party.

**16.05.120 Moratoria authority and requirements.**

(1) The City of Covington has authority to adopt a moratorium control or other interim control on development under RCW 90.58.590.

(2) Before adopting a moratorium or control pursuant to this authority, the City shall:

(a) Hold a public hearing on the moratorium or control. The public hearing shall be held within sixty (60) days of the adoption of the moratorium or control.

(b) Adopt detailed findings of fact that include, but are not limited to, justifications for the proposed or adopted actions and explanations of the desired and likely outcomes.

(c) Notify the Department of Ecology of the moratorium or control immediately after its adoption. The notification shall specify the time, place, and date of any public hearing.

(3) A moratorium or control adopted pursuant to this authority may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review.

(4) A moratorium or control adopted pursuant to this authority may be renewed for one or more six-month period if the City complies with the requirements in subsection (2) of this section before each renewal.

**16.05.130 Amendments to the Master Program and periodic review.**

(1) Amendments to the Master Program. Any of the provisions of this Master Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Any amendments shall also be subject to the procedures in CMC Chapter 14.25. Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Department of Ecology.

(2) Master Program review. This Master Program shall be periodically reviewed and amendments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with the requirements of WAC 173-26 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

**16.05.140 Severability.**

If any provisions of this Master Program, or its application to any person or legal entity or parcel of land or circumstances, are held invalid, the remainder of the Master Program, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected.

**Article III. Shoreline Environments**

**16.05.150 Establishment of shoreline environment designations.**

(1) This Master Program establishes the following five shoreline environments for the City of Covington. These shoreline environments shall include the shorelines of the City of Covington, including shorelands, surface waters, and bedlands.

- (a) High-Intensity;
- (b) Medium-Intensity;
- (c) Shoreline Residential;
- (d) Urban Conservancy; and
- (e) Aquatic.

(2) Shoreline environment designations are depicted on the Official Shorelines Map, adopted at the time of adoption of this Master Program and included in the Shoreline Element of the City of Covington Comprehensive Plan. These maps only approximately identify or depict the lateral extent of shoreline jurisdiction. The actual lateral extent of the shoreline jurisdiction shall be determined on a site-specific basis by a qualified professional at the time of a development application.

**16.05.160 High-Intensity Environment.**

(1) Purpose. The purpose of the High-Intensity environment designation is to provide for high-intensity water-oriented and non-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. A High-Intensity environment designation shall be assigned to those shoreline areas within incorporated municipalities and urban growth areas if they currently support high-intensity uses related to commerce, transportation, or navigation; or are suitable and planned for high-intensity water-oriented uses.

**16.05.170 Medium-Intensity Environment.**

(1) Purpose. The purpose of the Medium-Intensity environment designation is to provide for water-oriented and non-water-oriented commercial, mixed-use, and residential uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded. Adaptive reuse of existing structures for office uses is emphasized, along with public access and water-enjoyment uses.

(2) Designation Criteria. A Medium-Intensity environment designation shall be assigned to shoreline areas if they currently support residential, water-enjoyment, or commercial uses; are located in upland areas outside of stream buffers; and are suitable and planned for limited intensity commercial, residential, or water-enjoyment uses. .

**16.05.180 Shoreline Residential Environment.**

(1) Purpose. The Shoreline Residential environment designation is designed to provide for residential needs where the necessary facilities for development can be provided. An additional purpose is to provide appropriate public access and recreational uses.

(2) Designation Criteria. A Shoreline Residential environment designation shall be assigned to shoreline areas if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.



**16.05.190 Urban Conservancy Environment.**

(1) Purpose. The purpose of the Urban Conservancy environment designation 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. An Urban Conservancy environment designation shall be assigned to those shoreline areas where one or more of the following characteristics apply:

- (a) They are suitable for water-related or water-enjoyment uses;
- (b) They are open space, floodplain, stream buffer, 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.

**16.05.200 Aquatic Environment.**

(1) Purpose. The purpose of the Aquatic environment designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

(2) Designation Criteria. An Aquatic environment designation shall be assigned to all areas waterward of the ordinary high water mark.

**16.05.210 Environment designation interpretation.**

(1) Upland environment designations, including High-Intensity, Medium-Intensity, Shoreline Residential, and Urban Conservancy, shall apply to shorelands.

(2) Only one environment designation shall apply to a given shoreland area. In the case of different designations occurring parallel to the shoreline, designations shall be divided along an identified linear feature (such as a stream buffer).

(3) Any areas within shoreline jurisdiction that are not mapped and/or designated due to minor mapping inaccuracies in the lateral extent of shoreline jurisdiction from the shoreline waterbody related to site-specific surveys of ordinary high water mark, associated wetlands, floodway, and/or floodplain are automatically assigned the environment designation of the contiguous waterward shoreline environment designation.

(4) All other areas of shoreline jurisdiction that are neither mapped as jurisdiction nor assigned an environment designation shall be assigned an Urban Conservancy environment designation until the shoreline area can be re-designated through an SMP amendment process conducted consistent with WAC 173-26-100, as amended, and Article II of this chapter.

**Article IV. General Shoreline Regulations**

**16.05.220 Archaeological and historic resources.**

(1) Applicability. The following provisions apply to archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdiction or are inadvertently uncovered.

(2) Local developers and property owners shall immediately stop work and notify the City, the Department of Archaeology and Historic Preservation and affected Indian tribes if archaeological resources are uncovered during excavation.

(3) A site inspection or evaluation by a professional archaeologist in coordination with affected Native American tribes shall be required for all permits issued in areas documented to contain archaeological resources. Failure to comply with this requirement shall be considered a violation of the Shoreline Permit.

- (4) Significant archaeological and historic resources shall be permanently preserved for scientific study, education and public observation. When the City determines that a site has significant archeological, natural scientific or historical value, a Shoreline Substantial Development Permit and/or any other permit authorizing development or land modification shall not be issued which would pose a threat to the site. The City may require that a site be redesigned or that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts.
- (5) In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify the State Department of Ecology, the State Attorney General's Office and the State Historic Preservation Office of such a waiver in a timely manner.
- (6) In addition to the provisions of this SMP, archaeological sites shall be subject to RCW 2744 (Indian Graves and Records) and RCW 2753 (Archaeological Sites and Records) and shall comply with Chapter 25-48 WAC, or as subsequently amended.
- (7) Identified or suspected historical or archaeological resources shall be considered in park, open space, public access, and site planning with access to such areas designed and managed to give maximum protection to the resource and surrounding environment.
- (8) Clear interpretation of historical and archaeological features and natural areas shall be provided when appropriate.

**16.05.230 Environmental protection and critical areas.**

- (1) No net loss of shoreline ecological functions.
- (a) No use, activity, or modification shall result in a net loss of shoreline ecological function. Impacts to ecological functions shall be avoided, minimized, and mitigated to achieve this standard.
- (b) No permit shall be approved and no activity shall be authorized by the Shoreline Administrator without a clear finding that the use, activity, or modification, and any required mitigation, complies with the no net loss standard as set forth in subsection (1) of this section.
- (c) The applicant and/or party responsible for the use, activity, or modification shall provide all necessary information needed to demonstrate compliance with the no net loss standard.
- (d) The City shall periodically review shoreline conditions to determine whether or not other actions are necessary to ensure no net loss of ecological functions, protect and enhance visual quality, and enhance residential and recreational uses on the City's shoreline. Specific issues to address in such evaluations include, but are not limited to:
- (i) Water quality;
- (ii) Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that supports more desirable ecological and recreational conditions);
- (iii) Changing visual character as a result of new residential development, including additions, and individual conservation practices (both along shorelines and in upland areas); and
- (iv) Shoreline stabilization and modifications.
- (2) Critical areas in shoreline jurisdiction. Critical areas, critical area buffers, and shoreline buffers located within shoreline jurisdiction shall be regulated by Chapter 18.65 CMC which is herein incorporated by reference into this Master Program, with the following clarifications and modifications:
- (a) The reasonable use exception provisions (CMC 18.65.075) and the public agency/utility exception provisions (CMC 18.65.070) of the Critical Areas Ordinance shall not apply in shoreline jurisdiction.

Exceptions within shoreline jurisdiction shall require a shoreline variance based on the variance criteria listed in CMC 16.05.090 of this Master Program and WAC 173-27-170.

(b) The allowed alteration provisions of the Critical Areas Ordinance (CMC 18.65.050) shall not apply to Type S waters (shorelines of the state) or their buffers (shoreline buffers). Activities and alterations to shorelines of the state and their buffers shall be subject to the provisions of this Master Program.

(c) Shoreline buffer widths are defined in CMC 16.05.280 of this Master Program.

(d) Critical areas and buffers do not extend shoreline jurisdiction beyond the limits specified in this Master Program, except as provided for in CMC 16.05.040 of this chapter.

(e) Future amendments to the Critical Areas Ordinance require Department of Ecology approval of an amendment to this Master Program to incorporate updated language.

(f) If provisions of the Critical Areas Ordinance conflict with provisions of this Master Program, the provisions most protective of the ecological resource shall apply, as determined by the Administrator.

(g) If there are provisions of the Critical Areas Ordinance that are not consistent with the Shoreline Management Act, Chapter 90.58 RCW, and supporting Washington Administrative Code chapters, those provisions shall not apply.

(3) Mitigation Sequencing. Where required, mitigation measures shall be applied in the following sequence of steps, listed in order of priority; lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations;

(e) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;  
and

(f) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

(4) Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any bodies of water or to be discharged onto the land.

(5) The direct release of oil and hazardous materials or chemicals onto the land or into 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.

(6) All shoreline uses and activities shall utilize best management practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Physical control measures include, but are not limited to, catch basins, settling ponds, oil/water separators, filtration systems, grassy swales, interceptor drains and landscaped buffers. All types of BMPs require regular maintenance to continue to function as intended.

(7) All shoreline developments and uses shall utilize effective erosion control methods during both construction and operation.

- (8) All shoreline uses and activity shall be located, designed, constructed and managed in a manner that avoids, if feasible, and then minimizes adverse impacts to surrounding land and water uses and that is aesthetically compatible with the affected area.
- (9) All shoreline developments shall be located, constructed and operated so as not to be a hazard to public health and safety.
- (10) Land clearing, grading, filling and alteration of natural drainage features and land forms shall be limited to the minimum necessary for development. Any allowed activity shall be consistent with Chapter 14.60 CMC and this Master Program. Surface drainage systems or substantial earth modifications involving greater than 500 cubic yards of material shall be designed by a professional engineer. These designs shall seek to prevent maintenance problems, avoid adverse impacts to adjacent properties or shoreline features, and result in no net loss of shoreline ecological functions.
- (11) All shoreline uses and activities shall be located and designed to prevent or minimize the need for shoreline protection structures (bulkheading, riprap, etc.) and stabilization, landfills, groins, jetties, or substantial site regrades.
- (12) Identified significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation shall be sufficient reason for permit denial.

**16.05.240 Public access.**

(1) Public access shall be required in the following circumstances:

- (a) Public access shall be required for all shoreline development and uses, except for water-dependent uses and single-family residences not part of a development planned for more than four parcels.
- (b) Subdivisions of land into more than four parcels shall include dedication and improvement of public access.
- (c) Public entities, including the City of Covington, shall be required to incorporate public access measures as part of each public shoreline development project, unless access is incompatible with safety, security, or environmental protection.

(2) Where public access is required under subsection (1) of this section, a payment in lieu of providing public access shall be permitted in accordance with RCW 82.02.020 (relating to fees associated with development) provided that both of the following conditions are met:

- (a) The applicant demonstrates, and the City determines, that one or more of the following circumstances applies:
- (i) Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means; or
- (ii) Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions; or
- (iii) The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development; or
- (iv) Unacceptable environmental harm such as damage to fish spawning areas will result from the public access that cannot be mitigated; or
- (v) Significant undue and unavoidable conflict between the proposed access and adjacent use would occur and not be mitigated; and
- (b) The applicant demonstrates, and the City determines, that all reasonable alternatives have been exhausted, including but not limited to:
- (i) Regulating access by such means as limiting hours of use to daylight hours;

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

(iii) Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system.

(3) Where public access is required, the following provisions apply:

(a) Public access sites shall be connected directly to the nearest public street if possible.

(b) Public access sites shall be made barrier-free for the physically disabled where feasible.

(c) Physical public access shall be designed to prevent significant impacts to sensitive natural systems. Where impacts to shoreline ecological functions cannot be avoided, mitigation shall be required to meet the no net loss standard.

(d) Public access sites shall utilize environmentally friendly materials and technologies in such things as building materials, porous pavement, site preparation, drainage, and landscaping to the extent feasible.

(e) Where public access is to be provided by a trail, it shall be subject to the following provisions:

(i) The trail shall be consistent with CMC 18.65.050(6) and adhere to the provisions of CMC 18.65.050(7) 25.

(ii) Where feasible, the trail shall be placed on the furthest landward edge of the shoreline buffer.

(iii) Landscaping shall be composed of native, drought-tolerant, and site-appropriate vegetation to the extent feasible.

(iv) The City may require that other specific conditions, as determined by the City, to be described in a trail plan.

(f) 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.

(g) 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 in perpetuity with the land. Recording with the King County Department of Records shall occur at the time of permit approval (RCW 58.17.110; relating to subdivision approval or disapproval).

(h) The standard state approved logo and other approved signs that indicate the public's right of access and hour of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. In accordance with subsection (1)(a) of this section, signs controlling or restricting public access may be approved as a condition of permit approval.

(i) Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.

(4) Developments, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual or physical access to the water and the shorelines. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed either by clearing or by topping.

**16.05.250 Vegetation management.**

(1) All vegetation removal activities shall adhere to the requirements of the City's code pertaining to clearing (Chapter 14.60 CMC), critical areas (Chapter 18.65 CMC), and tree preservation and protection (Chapter 18.45 CMC), unless more restrictive standards are provided for in Chapter 16.05 CMC. A shoreline exemption letter or substantial development permit are required unless otherwise stated in this section.

(2) The removal of trees that are determined by a certified arborist as hazardous, possible threat to public safety, or posing an imminent risk of damage to an existing legally conforming structure, public or private road or sidewalk or other permanent improvement within the shoreline jurisdiction, is allowed subject to the following:

(a) Mitigation. The landowner shall replace any trees that are removed with a Pacific Northwest native tree with a minimum 2 inch caliper size replacement trees(s) at a one to one ratio (1:1) within in the shoreline buffer and at a 1:3 ratio (1 replacement tree for every three hazard trees removed) for any hazard tree removed within the shoreline jurisdiction but outside of the shoreline buffer.

(b) Wildlife snag as alternative to mitigation. A landowner may choose to convert a hazard tree proposed for removal to a wildlife snag as an alternative if recommended by a certified arborist.

(3) Selective Vegetation Pruning. Pruning of existing trees and vegetation within the shoreline jurisdiction with hand labor and hand-operated equipment consistent with current International Society of Arboriculture (ISA) best management practices guidelines, in accordance with the Master Program is allowed without a shoreline permit or approval. A Clearing and Grading Permit, Major or Minor Tree Permit, and/or SEPA review may still be required. In no event may a tree or vegetation which is an active nest site for a species of local importance be pruned.

(4) When vegetation removal is allowed, all significant trees removed shall be replaced with a Pacific Northwest native tree, a minimum 2-inch caliper size for replacement plantings consistent with the following minimum standards:

Significant Tree <sup>1</sup> Removed	Replacement Ratio (replaced: removed)
6-10 inches	1:1
10 – 16 inches	2:1
Greater than 16 inches	3:1

<sup>1</sup>A significant tree means any healthy tree of six inches caliper or larger.

(5) Vegetation removed within the shoreline buffer other than significant trees shall be replaced at a spatial ratio of 1:1 to replicate the structural habitat and ecological functions provided by native species.

(6) All vegetation and significant trees removed from the shoreline buffer shall be replaced within the shoreline buffer.

(7) Removal of vegetation within areas classified as critical areas or critical area buffers under CMC 18.65, or shoreline buffers under CMC 16.05.280 of this chapter, is subject to the following provisions:

(a) Removal of vegetation in such areas is prohibited unless such removal is determined to be necessary to support a water-oriented use, in connection with an approved alteration, to remove a documented hazard to existing development, or to remove noxious weeds as listed by the state in Chapter 16-750 WAC, and no other feasible alternative exists.

(b) All vegetation removal in critical areas, critical area buffers, and shoreline buffers shall document how they comply with all of the requirements of the CMC 16.05.230(3) Mitigation Sequencing and Chapter CMC 18.65.

(c) Vegetation replacement shall be required at an appropriate ratio to assure no net loss is achieved.

(d) The City shall require a report prepared by a qualified professional to ensure impacts are mitigated.

- (e) Within stream buffers, hazard trees shall be turned into snags if feasible, and/or resulting woody debris shall be put into the stream channel if it can be done in a manner that does not create a hazard on the site or to downstream properties.
- (8) Outside of areas classified as critical areas or critical area buffers under CMC 16.05.230(2) of this chapter, or shoreline buffers under CMC 16.05.280 of this chapter, removal of vegetation shall only be allowed in association with a permitted shoreline use or development, except that the following activities may be allowed independent of a permitted shoreline use or development:
- (a) Removal of noxious weeds as listed by the state in Chapter 16-750 WAC, provided such activity shall be conducted in a manner consistent with best management practices and the City of Covington's engineering design standards, and native vegetation shall be promptly reestablished in the disturbed area.
  - (b) Modification of vegetation in association with a legal, non-conforming use or development provided that said modification is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife habitats. This could include, but is not limited to the maintenance of an existing developed yard and ornamental landscaping.
  - (c) Normal and routine maintenance of existing trees, for view maintenance, safety, or other purposes, provided that said maintenance is consistent with accepted arboricultural practices, does not involve removal of healthy trees, and is not detrimental to the health of any trees.
  - (d) Maintenance or restoration of view sheds situated on public lands provided that said activity is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife habitat areas.
  - (e) Limited removal of trees may be allowed within the shoreline jurisdiction of Pipe Lake, at the discretion of the Shoreline Administrator, provided the following conditions are met:
    - (i) The removal is consistent with subsection (2) of this section;
    - (ii) Mitigation is provided and no net loss of ecological functions occurs; and
    - (iii) Native understory vegetation is preserved outside of areas used for structures and their maintenance, active recreation, and shoreline access.
- (9) Outside of critical areas, critical area buffers, and shoreline buffers, tree and vegetation removal shall be minimized and significant trees and other vegetation shall be replaced at an appropriate ratio to ensure no net loss is achieved. The City shall require a report prepared by a qualified professional to ensure impacts are mitigated.
- (10) Areas cleared of vegetation and not developed shall be subject to the following provisions:
- (a) Such areas shall be replanted within one (1) year, and shall be planned and maintained such that, within three (3) years' time, the vegetation is at least ninety (90) percent reestablished.
  - (b) Areas cleared of native vegetation shall be replanted with similar species of native vegetation in quantities designed to achieve no net loss of ecological function. Areas cleared of ornamental landscapes, including grass, may be replanted with similar species, unless mitigation is necessary to address project impacts. In all cases of revegetation, native vegetation shall be preferred.
  - (c) New or expanded lawn areas within shoreline buffers shall be prohibited.
- (11) The control of aquatic vegetation shall be subject to the following provisions:
- (a) Such activity shall only occur when native plant communities and associated habitats are threatened or where an existing water-dependent use is restricted by the presence of weeds.

(b) Such activity shall occur in compliance with all other applicable laws and standards, including Washington Department of Fish and Wildlife requirements.

(c) Control of aquatic vegetation by mechanical methods is exempt from the requirement to obtain a shoreline substantial development permit only if the bottom sediment or benthos is not disturbed in the process. It is assumed that mechanical removal of accumulated vegetation at a level closer than two (2) feet to the root level, including derooting or rotovating, will disturb the bottom sediment and benthos layer. Such methods shall be considered development for which a shoreline substantial development permit is required.

(d) The use of herbicides and pesticides to remove noxious plants in rivers, streams, wetlands, or ditches shall be subject to the following provisions:

(i) Within critical areas and critical area buffers, such activity shall be prohibited, except where no reasonable alternatives exist and it is demonstrated that such activity is in the public interest. Where such activity is permitted, a conditional use permit shall be required.

(ii) A permit from the Department of Ecology shall be required. Preparation of a SEPA checklist for review by other agencies may also be required.

(iii) Mechanical removal of noxious weeds shall be timed and carried out in a manner to minimize any disruption of wildlife or habitat.

(iv) The individual(s) involved shall obtain a pesticide applicator license from the Washington State Department of Agriculture.

**16.05.260 Water quality, stormwater, and non-point pollution.**

(1) All shoreline development, both during and after construction, shall minimize impacts related to surface runoff through control, treatment and release of surface water runoff such that there is no net loss of receiving water quality in the shoreline environment. Control measures include but are not limited to dikes, runoff intercepting ditches, catch basins, settling wet ponds, sedimentation ponds, oil/water separators, filtration systems, grassy swales, planted buffers, and fugitive dust controls.

(2) All shoreline development shall comply with the applicable requirements of the most recent edition of the Adopted Surface Water Design Manual and all applicable City stormwater regulations. The City will also rely on source control standards and other BMPs contained in the most recent versions of the Department of Ecology Stormwater Management Manual for Western Washington and The Low Impact Development Manual: Technical Guidance for Puget Sound.

(3) Shoreline development and uses shall adhere to all required setbacks, buffers and standards for stormwater storage basins and facilities. Low impact stormwater facilities may be allowed within designated shoreline setback areas if the applicant demonstrates compliance with all other regulations, including any applicable critical areas standards.

(4) Property owners with failing septic systems and applicants seeking required building, land use and shoreline permits for a major redevelopment shall be required to connect to the public sewer if such connection can be made within 300 feet of the subject property.

(5) The use of pesticides, herbicides, and fertilizers on lawns shall be prohibited within shoreline buffers.

**16.05.270 Flood hazard management.**

(1) Development within flood hazard areas shall be subject to the provisions of the City of Covington Flood Damage Prevention Ordinance (Chapter 16.15 CMC) in addition to the provisions of this SMP.

(2) New development or uses in shoreline jurisdiction, including the subdivision of land, are prohibited when it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway during the life of the development.



(3) New structural flood hazard reduction measures in shoreline jurisdiction shall be permitted only when it can be demonstrated by a scientific and engineering analysis that:

- (a) They are necessary to protect existing development;
- (b) Nonstructural measures are not feasible;
- (c) Impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss; and
- (d) Appropriate vegetation conservation actions are taken consistent with CMC 16.05.250.

(4) New structural flood hazard reduction measures shall be placed landward of associated wetlands and designated shoreline buffers, except for actions that increase ecological functions, such as wetland restoration; provided that such flood hazard reduction projects may be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible.

(5) New public structural flood hazard reduction measures, such as dikes or levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and immitigable significant ecological impacts, unavoidable conflict with proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

#### **Article V. Specific Shoreline Use Regulations**

##### **16.05.280 General shoreline use standards.**

(1) Permitted uses.

(a) Table 16.05.280-1 indicates which new, expanded, or altered shoreline uses may be allowed or prohibited in shoreline jurisdiction within each shoreline environment designation. Refer to the text in CMC 16.05.290-380 of this chapter for provisions related to specific uses listed in the table. Uses are classified as follows:

- (i) Uses allowed by Shoreline Substantial Development Permit or Shoreline Exemption are indicated by a "P" in the table.
- (ii) Uses allowed by Shoreline Conditional Use Permit are indicated by a "C" in the table.
- (iii) Prohibited uses are not allowed and are indicated by an "X" in the table.
- (iv) Uses regulated consistent with the adjacent upland environment designation are indicated by "Upland" in the table.
- (v) Uses not specifically identified in the table may be allowed by a Shoreline Conditional Use Permit.
- (vi) If there are any conflicts between Table 16.05.280-1 and the written provisions this Master Program, the written provisions shall control.

(b) Unless otherwise indicated in Table 16.05.280-1, the provisions of this section apply to primary uses, and accessory uses are regulated consistent with the primary use.

(c) Additional provisions for the Urban Conservancy environment. All new uses and developments, permitted or allowed as conditional, in the Urban Conservancy environment shall be compatible with conserving, protecting, and restoring ecological conditions of the shoreline. New uses and developments shall demonstrate consistency with the Urban Conservancy management policies as set forth in the Covington Comprehensive Plan.

**Table 16.05.280-1. Permitted uses by shoreline environment designation.**

Shoreline Use	Shoreline Environment Designation				
	High Intensity	Medium Intensity	Shoreline Residential	Urban Conservancy	Aquatic
<b>Agriculture</b>	X	X	X	X	X
<b>Aquaculture</b>	P	P	C	P	Upland
<b>Boating Facilities</b>	X	X	C	C	Upland
<b>Commercial Development</b>					
Primary	P	P	X (1)	X	X
Accessory	P	P	P	C	X
<b>Forest Practices</b>	X	X	X	X	X
<b>Industrial Development</b>	P	X	X	X	X
<b>Institutional Development (2)</b>	P	P	P	P	P
<b>In-Stream Structural Development</b>					
As part of a fish enhancement project	P	P	P	P	P
Other	C	C	C	C	C
<b>Mining</b>	X	X	X	X	X
<b>Recreational Development</b>					
Water-oriented	P	P	P	P	P
Non-water-oriented					
Primary	P	P	C	C	X
Accessory	P	P	P	P	X
Multi-use trails	P	P	C	C	X
Minor trails	P	P	P	P	X
<b>Residential Development</b>					
Single-family	P	P	P	P/C/X (3)	X
Multi-family	P	P	X	X	X
<b>Signs</b>					
Primary	X	X	X	X	X
Accessory	P	P	P	C	C
<b>Transportation Facilities</b>					
New circulation routes related to permitted shoreline use	C	C	C	C	C (4)
Expansion of existing circulation system	P	P	C	C	C (4)
Multi-use trails	P	P	C	C	C (4)
<b>Parking</b>					
Primary	X	X	X	X	X
Accessory	P	P	P	C	X
<b>Utilities</b>					
Major					
Solid waste disposal or transfer sites	X	X	X	X	X

Shoreline Use	Shoreline Environment Designation				
	High Intensity	Medium Intensity	Shoreline Residential	Urban Conservancy	Aquatic
(excluding storage of recyclable materials)					
Power generation, substations, and gas storage facilities	C	C	C	C	X
All other	C	C	C	C	C
Minor	P	P	P	C	C
<b>Uses Not Specified</b>	C	C	C	C	C

Table Notes:

- Commercial uses that are incidental to the primary residential use and are compatible with the residential character of the neighborhood, such as home occupations, may be permitted.
- Institutional development shall include scientific, historical, cultural, or educational uses. The provisions for commercial development set forth in CMC 16.05.320 shall apply to institutional development.
- Allowed as a permitted use (P) in the Jenkins Creek shoreline jurisdiction; as a conditional use (C) in the Big Soos Creek shoreline jurisdiction; and prohibited (X) in the Pipe Lake shoreline jurisdiction. All residential development shall be subject to the critical areas regulations set forth in CMC 16.05.230.
- Bridges shall be allowed only in accordance with the provisions set forth in CMC 16.05.380, Transportation facilities, and all applicable shoreline modification regulations set forth in CMC 16.05.400-450.

(2) Dimensional standards.

(a) Table 16.05.280-2 defines the dimensional standards applicable to all shoreline development within each shoreline environment designation. Dimensional standards include maximum height, shoreline buffers, building setbacks from the shoreline buffer, impervious surface coverage, and minimum lot width. All development shall also comply with all applicable dimensional standards, including interior and yard setbacks, pursuant to CMC Title 18. Where a conflict exists between a requirement of this Master Program and the zoning code, the most protective provision shall prevail.

**Table 16.05.280-2. Dimensional standards.**

Dimensional Standard	Shoreline Environment Designation				
	High Intensity	Medium Intensity	Shoreline Residential	Urban Conservancy	Aquatic
<b>Maximum Height</b>	45 ft.	45 ft.	30 ft.	30 ft.	NA
<b>Shoreline Buffer (1)</b>	115 ft.	115 ft.	115 ft. (2)	115 ft.	NA
<b>Building Setback from Buffer</b>	15 ft.	15 ft.	15 ft.	15 ft.	NA
<b>Impervious Surface Coverage</b>	60%	50%	50%	10%	NA
<b>Minimum Lot Width</b>	60 ft.	60 ft. (3)	60 ft.	100 ft. (3)	NA

Table Notes:

- Shoreline buffers may be modified subject to the critical areas provisions of CMC 16.05.230. Use and management of the buffer shall comply with all critical areas standards unless a provision would preclude a water-dependent use.
- Shoreline buffers in the Shoreline Residential environment may be reduced pursuant to the provisions of 16.05.280(2)(c).

3. Where the Urban Conservancy environment and the Medium Intensity environment are parallel shoreline environments along Jenkins Creek, no minimum lot width shall be required for residential development, provided a conservation easement shall be required for all portions of lots within the Urban Conservancy designation; native vegetation shall be preserved within the easement; and joint consolidated access shall be provided within the easement.

(b) Maximum height.

(i) The maximum height set forth in Table 16.05.280-2 and the provisions of this subsection shall not apply to television antennas, chimneys, flagpoles, public utilities, and similar appurtenances.

(ii) In addition to compliance with the maximum height standard as set forth in Table 16.05.280-2, an applicant shall demonstrate that structures located below the ordinary high water mark are the minimum necessary to accommodate a water-dependent or other permitted use. Elevated decks, storage buildings, and other structures on docks are prohibited unless necessary for the operation of a water-dependent use, and no reasonable alternative exists.

(iii) A height of more than thirty-five (35) feet may be approved only if the applicant prepares a view corridor study indicating that the proposed structure would not diminish views of the shoreline from surrounding properties.

(iv) Development shall also be subject to the height limits established by the underlying zoning, but in no case shall height exceed forty-five (45) feet above average grade level.

(v) Accessory structures, where allowed, shall not exceed a maximum height of twelve (12) feet.

(c) Shoreline buffers.

(i) The shoreline buffer shall be measured landward, on a horizontal plane perpendicular to the shoreline. The buffer shall be measured from the ordinary high water mark, unless a channel migration zone is found to occur and documented in a study submitted by a qualified professional, in which case the City may require that the shoreline buffer be measured from the edge of the channel migration zone.

(ii) Developments associated with water-dependent uses, ecological restoration, and public access shall not be subject to the requirement for a shoreline buffer. Mitigation sequencing shall be applied to ensure no net loss of shoreline ecological functions, consistent with CMC 16.05.230(3) of this chapter.

(iii) Accessory structures. Accessory structures that are not water-dependent or water-related are prohibited within the shoreline buffer, except within the Shoreline Residential environment accessory structures may be allowed within the shoreline buffer if they are no closer than 10 feet from the OHWM, and less than or equal to two hundred (200) square feet in total area, and shall not exceed a maximum height of twelve (12) feet. The area of shoreline buffer impacted shall be mitigated by planting native vegetation in an equivalent area elsewhere within in the shoreline buffer.

(iv) Buffer averaging or buffer reduction may be achieved using the critical areas provisions set forth in CMC 18.65.360(2) and CMC 18.65.360(3), respectively, provided that the buffer shall not be reduced to less than 60 percent of the standard buffer. Further buffer reduction shall require approval of a shoreline variance.

(v) Pipe Lake buffer reduction.

(A) In addition to the allowance under subsection (iv) above, within the Shoreline Residential environment only, the Shoreline Administrator may approve reduction of the standard buffer down to a minimum of sixty (60) feet when a combination of the mitigation measures set forth in Table 16.05.280-3 is used to achieve an equal or greater protection of shoreline ecological functions, and subject to the provisions of this subsection.

**Table 16.05.280-3. Shoreline buffer reduction mechanisms.**

Reduction Mechanism		Reduction Allowance
<b>Water-Related Actions (1)</b>		
1	Removal of an existing bulkhead covering at least 75 percent of the shoreline frontage that is located at, below, or within 5 feet landward of the ordinary high water mark; and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography and beach/substrate composition.	30 ft.
2	Removal of an existing bulkhead covering at least 25 percent of the shoreline frontage that is located at, below, or within 5 feet landward of the ordinary high water mark; and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, beach/substrate composition, and vegetation.	15 ft.
3	Preservation of existing natural shoreline conditions (e.g. no bulkhead or other unnatural shoreline features such as upland impervious surfaces or other structural alterations) within 5 feet of the ordinary high water mark, including preservation of existing vegetation.	10 ft.
4	Preservation of existing trees and native vegetation and restoration of native vegetation as necessary in at least 75 percent of the remaining buffer area. Up to 25 percent of the buffer area can be composed of existing non-invasive, non-native vegetation. Up to 15 feet of the shoreline frontage (from the ordinary high water mark landward to the building setback line) may be permitted for improved shoreline access, provided access areas shall be located to avoid areas of greater sensitivity and habitat value. (2)	20 ft.
5	Preservation of existing trees and native vegetation and restoration of native vegetation in at least 25 percent of the remaining buffer area. Up to 15 feet of the shoreline frontage (from the ordinary high water mark landward to the building setback line) may be permitted for improved access, provided access areas shall be located to avoid areas of greater sensitivity and habitat value. (3)	10 ft.
<b>Upland-Related Actions (4)</b>		
6	Installation of biofiltration/infiltration mechanisms such as bioswales, created and/or enhanced wetlands, or ponds that exceed standard stormwater requirements.	15 ft.
7	Installation of a "green" roof in accordance with the standards of the LEED Green Building Rating System.	15 ft.
8	Installation of pervious material for driveway or road construction.	10 ft.
9	Limiting total impervious surface in the reduced buffer area to less than 5 percent.	10 ft.
10	Preserving or restoring at least 20 percent of the total lot area outside of the reduced buffer as native vegetation. No more than 20 percent of the total lot area can be lawn.	10 ft.

Table Notes:

1. At least one Water-Related Action must be undertaken in order to achieve the full buffer reduction allowed.
2. This mitigation measure may not be used by any properties that currently have native vegetation in 75% or more of the remaining buffer area.
3. This mitigation measure may not be used by any properties that currently have native vegetation in 25% or more of the remaining buffer area.
4. A maximum of 35 feet in cumulative buffer reduction may be achieved using Upland-Related Actions.

(B) Buffer averaging as set forth in CMC 18.65.360(2) may be used in combination with the mitigation measures provided in Table 16.05.280-3, provided that the buffer shall not be reduced to a width of less than 50 feet at any location. Further buffer reduction shall require approval of a shoreline variance.

(vi) All property owners who obtain approval for a reduction in the buffer must record the final approved buffer and corresponding conditions in a Notice on Title, and provide a copy of the Notice on Title to the Shoreline Administrator.

(vii) All property owners who obtain approval for a reduction in the buffer must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that includes appropriate limitations on the use of fertilizer, herbicides, and pesticides as needed to protect lake water quality. This plan shall be recorded as a Notice on Title, and a copy of the final recorded Notice on Title provided to the Shoreline Administrator.

(viii) Restoration of native vegetation shall consist of a mixture of trees, shrubs, and groundcover and be designed to improve habitat functions. Preparation of a revegetation plan shall be completed by a qualified professional and include a monitoring and maintenance program that shall, at a minimum, include the following:

1. The goals and objectives for the mitigation plan;
2. The criteria for assessing the mitigation;
3. A monitoring plan that includes annual progress reports submitted to the Shoreline Administrator and that lasts for a period sufficient to establish that performance standards have been met as determined by the Shoreline Administrator, but not less than five (5) years; and
4. A contingency plan.

(ix) Whenever the Shoreline Administrator determines that monitoring has established a significant adverse deviation from predicted impacts, or that mitigation or maintenance measures have failed, the applicant or the property owner shall be required to institute correction action, which shall also be subject to further monitoring as provided in this section.

(x) The Shoreline Administrator may require a Financial Guarantee in an amount sufficient to guarantee that all required mitigation measures will be completed in a manner that complies with conditions of approval and to guarantee satisfactory workmanship and materials for a period not to exceed five years. The Shoreline Administrator shall establish the conditions of the bond according to the nature of the proposed mitigation, maintenance or monitoring and the likelihood and expense of correcting mitigation or maintenance failures.

(xi) All costs associated with the mitigation/monitoring and planning including city expenses, shall be the responsibility of the applicant.

(xii) Existing structures. Existing structures that are not considered to be nonconforming and located within the shoreline buffer may be replaced in their current location and configuration to the extent allowed by local, state, and federal agencies with jurisdiction.

(d) Building setbacks. Structures allowed within the shoreline buffer under subsection (c) of this section shall also be allowed within the building setback from the shoreline buffer unless otherwise prohibited by Chapter 18.65 CMC

(e) Impervious Surface Coverage.

(i) The amount of impervious surface shall be the minimum necessary to provide for the proposed use.

(ii) Impervious surface coverage is further restricted in critical areas, critical area buffers, and shoreline buffers pursuant to the critical areas regulations set forth in CMC 16.05.230.

(iii) Outside of critical areas, critical area buffers, and shoreline buffers, a credit towards the total impervious surface coverage may be provided through the use of permeable materials, such as pervious concrete, subject to approval by the Shoreline Administrator in consultation with the Development Review Engineer pursuant to CMC Chapter 13.25. Within the Urban Conservancy environment, this credit shall be limited to a maximum of 20% of the site area. The City will encourage practices that further minimize impervious surfaces and stormwater runoff, including use of best available technologies.

**16.05.290 Agriculture.**

(1) Only existing agricultural uses that predated the incorporation of Covington in 1998 are permitted, subject to all requirements of this Master Program, and provided:

(a) All uses and development shall be located and designed to assure no net loss of ecological functions and have no significant adverse impact on other shoreline resources and values;

(b) A shoreline substantial development permit is requirements for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(e)(iv);

(c) Any barn, shed, or other structure constructed in conjunction with the permitted agricultural activity shall not be constructed within the floodway;

(d) All existing agricultural activity along shorelines of the state shall conform to the best management practices developed pursuant to the Federal Water Pollution Control Act of 1972 and adopted by the King County Soil Conservation District;

(e) Lagoons, ponds, or other waste retention facilities shall be subject to subsection (b) of this section; and

(f) Agricultural uses shall comply with all applicable critical areas regulations as set forth in CMC 16.05.230 of this chapter.

**16.05.300 Aquaculture.**

(1) Aquaculture shall not be permitted in areas where it would result in a net loss of ecological functions or significantly conflict with navigation or other water-dependent uses.

(2) Aquacultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the Act and this Master Program, to ensure no net loss of ecological function.

(3) Aquaculture facilities shall be designed and located such that they do not spread disease to native aquatic life, establish new nonnative species that cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

(4) Impacts to ecological functions shall be mitigated in accordance with the sequence set forth in CMC 16.05.230(3).

**16.05.310 Boating facilities.**

(1) Applicability. Boating facilities, as regulated in this section, shall include commercial or non-commercial moorage structures serving more than four (4) single-family residences.

(2) Boating facilities shall be located where such development can comply with the requirement for no net loss of ecological functions, and where existing navigation rights and channels can be protected.

(3) Extended moorage on waters of the state without a lease or permission shall be prohibited, except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

(4) The responsibility to comply with all state agency policies and regulations, including all applicable health, safety, and welfare requirements associated with the primary use or accessory use, shall belong to the applicant.

(5) The applicant shall demonstrate that traffic generated by the boating facility shall be safely and conveniently handled by the streets serving the proposed facility.

(6) New boating facilities shall be designed to avoid, then minimize, potential aesthetic impacts. Where such impacts cannot be avoided they shall be mitigated, including the use of vegetation, screening, and placement, where applicable.

- (7) Public access shall be required for all new boating facilities, unless the applicant demonstrates that such access is infeasible, subject to all requirements in CMC 16.05.240 of this chapter.
- (8) Live-aboards and night-time use of boats, including for sleeping, shall be prohibited.
- (9) Boating facilities shall have provisions available for cleanup of accidental spills of contaminants.
- (10) Use of internal combustion engines on Pipe Lake shall be prohibited, in accordance with CMC 8.25.

**16.05.320 Commercial development.**

- (1) Water-enjoyment and water-related commercial development shall be required to provide public access and ecological restoration where feasible, consistent with the provisions of CMC 16.05.240 of this chapter, and shall avoid, minimize, and mitigate impacts to existing vegetation, recreational uses, and public access.
- (2) New non-water-oriented commercial development shall be prohibited unless it is part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit consistent with the policies of the Act.
- (3) Non-water-dependent commercial development shall be prohibited over water, except in existing structures and where necessary to support water-dependent uses.
- (4) Home occupations may be permitted within the Shoreline Residential environment, provided they meet the requirements of CMC 18.80.100, Home Occupations, as amended.
- (5) Commercial development accessory to a permitted recreational use or facility may be permitted as a conditional use in the Urban Conservancy environment. Examples of commercial developments accessory to a permitted recreational use or facility include concession stands and private parties, receptions, or banquets (one-time CUP to establish scope of activity allowed).
- (6) Commercial vendors located outside of shoreline jurisdiction shall not establish facilities within shoreline jurisdiction, except that this prohibition does not preclude a vendor from being hired to provide services in

**16.05.330 Industrial development.**

- (1) Industrial development and redevelopment shall be located, designed, and constructed to result in no net loss of ecological processes and functions.
- (2) Industrial development and redevelopment shall include cleanup and restoration of impacted sites.
- (3) Public access shall be required consistent with CMC 16.05.240 of this chapter, and unless such a requirement would interfere with operations or create hazards to life or property.
- (4) Industrial development shall utilize the best techniques in design and siting to prevent the release of contaminants into the adjoining water bodies in order to comply with the water quality standards set forth in RCW 90.58.
- (5) New non-water-oriented industrial development shall be prohibited unless it is part of a mixed-use project and provides a significant public benefit such as ecological restoration, environmental clean-up, historic preservation, or public access.

**16.05.340 In-stream structural development.**

- (1) In-stream structures shall not impede upstream or downstream migration of anadromous fish. All new replacement structures, including culverts, shall be made fish passable in accordance with the most recent Washington State Department of Fish and Wildlife requirements or with the National Marine Fisheries Service guidelines for Endangered Species Act-listed species.
- (2) Structures shall be designed and located to minimize removal of riparian vegetation



- (3) In-water structures shall be located and designed to preserve or enhance aquatic habitat and to minimize impacts on the visual and aesthetic quality of the shoreline.
- (4) In-water structures shall be consistent with CMC 18.65.050(6) and applicable conditions of CMC 18.65.050(7).

**16.05.350 Recreational development.**

- (1) Applicability. This section shall apply to both public and private shoreline recreational facilities, excluding private residences. Commercial recreational development shall be subject to the provisions of CMC 16.05.320, Commercial development.
- (2) Proposals for new or expanded recreational development shall include provisions for public access to the shoreline. Public access sites shall comply with the requirements of CMC 16.05.240(3) of this chapter. New or expanded recreational development that does not provide public access may be authorized provided the applicant demonstrates compliance with CMC 16.05.240 of this chapter.
- (3) Recreational developments, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual or physical access to the water and the shorelines. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed either by clearing or by topping.
- (4) All new structures associated with a recreational development, other than accessory or water-dependent structures such as docks and boardwalks that provide access to the water for that development, shall maintain the required shoreline buffer and building setback as set forth in CMC 16.05.280 of this chapter. Existing structures may be replaced in their existing location and configuration to the extent allowed by local, state, and federal agencies with jurisdiction. Shoreline buffer reduction beyond that allowed under CMC 16.05.280 shall require a shoreline variance.
- (5) Recreational development shall be located, designed, and constructed to result in no net loss of shoreline ecological functions, including protection of existing native shoreline vegetation and restoration of native shoreline vegetation impacted by development activities. Mitigation shall be provided as necessary to meet this requirement. The City may request studies by qualified professionals to determine compliance with this requirement.
- (6) Water-dependent or water-related activities such as swimming, boating, and fishing, and activities that benefit from waterfront scenery such as picnicking, hiking, and bicycling, shall be given priority in planning public and private recreational development in shoreline jurisdiction.
- (7) Recreational development shall make adequate provisions for, as applicable:
  - (a) Motorized, non-motorized, and pedestrian access;
  - (b) The prevention of trespass onto adjacent properties, using mechanisms including but not limited to landscaping and fencing;
  - (c) Protection and restoration of critical areas and shoreline processes and functions;
  - (d) Signs indicating the public's right of access to shoreline acres, installed and maintained in conspicuous locations at the point of access and entrance; and
  - (e) Buffering of such development from adjacent private property or natural areas.
- (8) In approving recreational development, the City shall ensure that the development will maintain, enhance, or restore desirable shoreline features.
- (9) Swimming areas shall be separated from boat launch areas.

- (10) The construction of swimming facilities, piers, moorages, floats, and launching facilities waterward of the ordinary high water mark shall also be subject to the provisions for overwater structures as set forth in CMC 16.05.420 of this chapter.
- (11) Public boat launching facilities may be permitted provided the traffic generated by such facilities can be safely and conveniently handled by the streets serving the proposed facility.
- (12) Fragile and unique shoreline areas with valuable ecological functions, such as wetlands and wildlife habitats, shall be used only for non-intensive recreation activities that do not involve the construction of structures.
- (13) Recreational developments that require periodic use of fertilizers, pesticides, and other chemicals, such as golf courses and playfields, or that support high-intensity activities such as sporting events as a primary use, shall be located outside of shoreline jurisdiction.
- (14) Trails.
- (a) Trails shall be designed to avoid significant impacts to sensitive natural systems and shall result in no net loss of ecological functions. Mitigation sequencing as set forth in CMC 16.05.230(3) of this chapter shall be required.
  - (b) Trails shall be located at least eighty (80) feet from the ordinary high water mark, except in limited areas to provide viewpoints or conform to topography. Publicly accessible trails shall meet the applicable provisions of CMC 16.05.240.
  - (c) Trails not intended for public access shall be limited to non-motorized, pervious trails, including boardwalks, no greater than six (6) feet wide. Trails not meeting these criteria shall be considered multi-use, and shall require a conditional use permit in the Shoreline Residential and Urban Conservancy environments.
- (15) Whenever financially feasible and practical, the City shall require the use of building materials and technologies whose production and use result in reduced environmental impacts when developing public access to the shoreline. Porous pavements shall be used unless the applicant demonstrates to the satisfaction of the Shoreline Administrator that such materials would restrict accessibility, pose a safety hazard, or are not sufficiently durable.

**16.05.360 Residential development.**

- (1) Consistent with CMC 16.05.050, Exemptions, and WAC 173-27-040, a substantial development permit is not required for construction within the Shoreline Residential environment by an owner, lessee, or contract purchaser of a single-family residence for his own use or the use of his family. However, such construction and all normal appurtenant structures shall otherwise conform to the provisions of this Master Program. An “appurtenance” means a structure that is necessarily connected to the use and enjoyment of a single-family residence and may include a garage, deck, driveway, utilities, fences, and grading that does not exceed two hundred fifty (250) cubic yards.
- (2) All new structures associated with a residential development, other than water-dependent structures such as docks, shall maintain the required shoreline buffer and building setback as set forth in CMC 16.05.280 of this chapter. Existing structures, not determined to be nonconforming, may be replaced in their existing location and configuration to the extent allowed by local, state, and federal agencies with jurisdiction. Shoreline buffer reduction beyond that allowed under CMC 16.05.280 shall require a shoreline variance.
- (3) Over-water residences and floating homes shall be prohibited.
- (4) New residential lots created through subdivision or short subdivision shall be designed, configured, and developed to:
- (a) Prevent the loss of ecological functions at full build-out;
  - (b) Prevent the need for new shoreline stabilization or flood hazard reduction measures; and
  - (c) Be consistent with the environment designations and standards of this Master Program.

(5) New multi-unit residential development, including the subdivision of land into more than four (4) parcels, shall provide community and/or public access in conformance with the provisions of CMC 16.05.240 of this chapter.

(6) The stormwater runoff for all new or expanded pavements or other impervious surfaces associated with residential development shall be directed to infiltration systems, and other Low Impact Development techniques shall be incorporated into new development as feasible, in accordance with the City's adopted Surface Water Design Manual and the Low Impact Development Technical Guidance Manual for Puget Sound.

(7) Residential development shall result in no net loss of shoreline ecological functions. Mitigation sequencing as set forth in CMC 16.05.230(3) shall be required. The City may request studies by qualified professionals to determine compliance with this requirement.

(8) The City shall notify affected Indian Tribes when a single-family home or other exempt development is proposed in the Jenkins Creek or Big Soos Creek shoreline areas.

**16.05.370 Signs.**

(1) Commercial signs are prohibited in all shoreline environments.

(2) Non commercial signs, where allowed by CMC Chapter 18.55, shall comply with the following provisions:

(a) Sign plans and designs shall be submitted for review and approval at the time of shoreline permit application.

(b) All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.

(c) Over-water signs shall be related to water-dependent uses only.

**16.05.380 Transportation facilities.**

(1) General standards.

(a) New road and bridge construction in shoreline jurisdiction shall be avoided and minimized and allowed only through a conditional use permit when related to and necessary for the support of permitted shoreline activities.

(b) New stream crossings associated with transportation uses shall be avoided if possible and minimized in number and total area impacted (e.g. using perpendicular crossings). Culverts and bridges shall be designed to allow passage of adult and juvenile salmon pursuant to WDFW Fish Passage Guidelines and to accommodate the flow of water, sediment, and woody debris during the 100 year return storm event. Bridge abutments shall be located outside of floodplains and channel migration zones if feasible.

(c) Applicants for new transportation facilities shall demonstrate how such facilities have been planned, located, and designed where routes will have the least possible adverse effect on unique or fragile shoreline features.

(d) Transportation facilities shall result in no net loss of shoreline ecological functions and no adverse impacts on existing or planned water-dependent uses. Mitigation shall be provided as necessary to meet this requirement.

(e) Where feasible, transportation and utility facilities shall be required to make joint use of rights-of-way, and to consolidate crossings of water bodies to minimize adverse impacts to the shoreline.

(f) Circulation system plans within the shoreline shall consider and include appropriate provisions for pedestrian, bicycle, and public transportation.

(2) Roads.

(a) Expansion of existing roadways may be permitted only when the applicant demonstrates that:

(i) No alternative route is feasible;

(ii) The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment; and

(iii) The roadway expansion is in the public interest.

(b) Where new roads are proposed, applicants shall demonstrate that efforts have been made to coordinate with existing land use plans, including the City's Comprehensive Plan and this Master Program.

(c) All debris and other waste materials from roadway construction shall be disposed of in such a way as to prevent their entry into any water body.

(d) Roads shall be designed to provide safe pedestrian and non-motorized vehicular crossings where public access to shorelines is intended.

(e) Any road expansion affecting streams and waterways shall be designed to allow fish passage and minimum impact to habitat.

(f) Streets within shoreline jurisdiction shall be designed with the minimum pavement area required. Gravel and more innovative materials shall be used where feasible for pathways and road shoulders to minimize the amount of impermeable surfaces and help to maintain a more natural appearance.

(g) The City shall give preference to mechanical means for roadside brush control on roads in shoreline jurisdiction rather than the use of herbicides.

(3) Parking.

(a) Parking facilities shall be located outside of shoreline jurisdiction except to support an authorized shoreline use. Parking as a primary use shall be prohibited in shoreline jurisdiction.

(b) Parking facilities shall provide adequate provisions to control surface water runoff to prevent it from contaminating water bodies.

(c) Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.

(d) Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Exterior parking facilities for nonresidential uses shall be landscaped with vegetation in such a manner that plantings provide effective screening within three years of project completion.

(e) New and reconstructed parking areas within the Urban Conservancy shoreline environment shall utilize Low Impact Development (LID) techniques as appropriate and as described in the most recent edition of the Low Impact Development Manual: Technical Guidance for Puget Sound.

**16.05.390 Utilities.**

(1) General standards.

(a) Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner.

(b) Utility lines shall utilize existing rights-of-way, corridors, and/or bridge crossings whenever possible and shall avoid duplication and construction of new corridors in all shoreline areas. Proposals for new corridors or water crossings shall fully substantiate the infeasibility of existing routes.

(c) Utility facilities shall be located, designed, and constructed to avoid disturbance of unique and fragile areas, including wildlife spawning, nesting, and rearing areas. Utility facility development shall result in no net loss of

shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement, with consideration given to ongoing impacts, such as permanent restrictions on vegetation growing under transmission lines or within utility corridors.

(d) Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum. Upon project completion, any disturbed areas shall be restored to their pre-project condition or better consistent with CMC 16.05.250 of this chapter.

(2) Major utilities.

(a) Applicability. The provisions of this subsection apply to major utilities, such as solid waste handling and disposal, water transmission lines, sewage treatment facilities and mains, power-generating or transfer facilities, gas distribution lines and storage facilities, and stormwater mains and regional treatment facilities.

(b) Major utilities shall be located outside of shoreline jurisdiction unless no other feasible alternative exists. When allowed under this regulation, major utilities shall be located landward of the ordinary high water mark, unless such location is not feasible or would result in potentially greater environmental impacts.

(c) In the case of a new primary utility corridor serving multiple municipalities and districts, the determination as to the feasibility of alternative routes outside of shoreline jurisdiction and/or the possibility of using existing rights-of-way may include, but is not limited to, consideration of:

(i) Construction impacts on the community, including impacts on traffic and adjacent land uses;

(ii) Engineering considerations, including restoration or disruption issues related to the presence of existing public improvements and utility facilities;

(iii) Environmental considerations, including impacts on the ecological function both within and outside of shoreline jurisdiction; and

(iv) Project considerations, including construction cost, construction schedule, and expenditures or contractual commitments made by the proponent of the corridor, prior to the adoption of this Master Program, in acquiring rights for the proposed route.

(d) Where major utilities must be located within shoreline jurisdiction, they shall be located and designed so as not to destroy or obstruct scenic views.

(e) Stream and water crossings shall be minimized according to mitigation sequencing. Boring shall be the preferred method unless it is demonstrated to be infeasible. Utilities that need to cross water shall be deep enough to avoid the need for bank stabilization or fill. Consideration shall be given to flooding and erosion when considering appropriate depth.

(f) Solid waste disposal sites and facilities shall be prohibited in shoreline jurisdiction. Storage of recyclable materials shall not be considered solid waste disposal.

(g) Major utilities shall provide screening of facilities from water bodies and adjacent properties in a manner that is compatible with the surrounding environment. Type of screening required shall be determined by the City on a case-by-case basis.

(h) To allow for the greatest amount of public input to help guide utility-related decisions, the City shall hold public meetings prior to the issuance of a substantial development permit, conditional use permit, or shoreline variance for a major primary utility project in accordance with the administrative procedures set forth in Article II of this Master Program.

(3) Minor utilities.

- (a) Applicability. The provisions of this subsection apply to utilities that are accessory to shoreline uses, including utilities that affect small-scale distribution services connected directly to uses along the shoreline, such as power, telephone, cable, water service, sewer service lines, and stormwater collection and conveyance.
- (b) Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way.
- (c) Proposals for new utility corridors shall fully substantiate the infeasibility of using existing utility corridors.
- (d) New utility lines, pipelines, and cables, including electricity, communications, and fuel lines, shall be located underground unless demonstrated to be infeasible. Existing above-ground lines shall be moved underground when properties are redeveloped or in conjunction with major system upgrades or replacements.
- (e) The location and construction of outfalls shall comply with all applicable federal, state, county, and city regulations.
- (f) The City of Covington shall maintain, enhance, and restore the natural drainage systems to protect water quality, reduce flooding, reduce public costs, and prevent associated environmental degradation for no net loss of shoreline ecological functions.
- (g) The City shall establish maintenance procedures to assure continued proper functioning of surface water management and drainage systems.

**Article VI. Shoreline Modification Regulations**

**16.05.400 General shoreline modification standards.**

(1) Permitted modifications.

(a) Table 16.05.400-1 indicates which new, expanded, or altered shoreline modifications may be allowed or prohibited in shoreline jurisdiction within each shoreline environment designation. Refer to the text in CMC 16.05.410-450 of this chapter for provisions related to specific modifications listed in the table. Modifications shall also be subject to underlying zoning. Modifications are classified as follows:

- (i) Modifications allowed by Shoreline Substantial Development Permit or Shoreline Exemption are indicated by a “P” in the table.
- (ii) Modifications allowed by Shoreline Conditional Use Permit are indicated by a “C” in the table.
- (iii) Prohibited modifications are not allowed and are indicated by an “X” in the table.
- (iv) Modifications regulated consistent with the adjacent upland environment designation are indicated by “Upland” in the table.
- (v) Modifications not specifically identified in the table may be allowed by a Shoreline Conditional Use Permit.
- (vi) If there are any conflicts between Table 16.05.400-1 and the written provisions this Master Program, the written provisions shall control.

**Table 16.05.400-1. Permitted modifications by shoreline environment designation.**

Shoreline Use	Shoreline Environment Designation				
	High Intensity	Medium Intensity	Shoreline Residential	Urban Conservancy	Aquatic
<b>Dredging and Dredge Spoil Disposal</b>					
Dredging	C	C	C	C	C

Shoreline Use	Shoreline Environment Designation				
	High Intensity	Medium Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Dredge spoil disposal	C	C	C	C	C
<b>Fill and Excavation</b>					
Fill	C (1)	C (1)	C (1)	C (1)	C
Excavation (2)	C (1)	C (1)	C (1)	C (1)	C
<b>Overwater Structures</b>					
Boathouse	X	X	X	X	X
Bridge	C	C	C	C	C
Joint-use pier, dock, or float	X	X	P	C/X(3)	Upland
Accessory to residential structures					
Single-use pier, dock, or float	X	X	P	C/X (3)	Upland
Launching ramp	X	X	X	X	X
Not accessory to residential structures					
Single-use pier, dock, or float	X	X	C	C/X (3)	Upland
Launching ramp	X	X	X	C/X (3)	Upland
Launching rails	X	X	C	C/X (3)	Upland
<b>Shoreline Habitat and Ecological Enhancement</b>	P	P	P	C/P (4)	Upland
<b>Shoreline Stabilization</b>					
Soil bioengineering	P	P	P	P	P
Bulkheads	X	X	P	C	Upland
Breakwaters, groins, and jetties	X	X	X	X	X
Riprap	C	X	X	X	Upland
Weirs, new	X	X	X	X	X
Weirs, repair and replacement of existing	C	C	C	C	C
<b>Modifications Not Specified</b>	C	C	C	C	C

Table Notes:

1. Fill landward of the ordinary high water mark associated with a permitted upland use shall be permitted as a Shoreline Substantial Development Permit or Shoreline Exemption (“P”). Fill landward of the ordinary high water mark that does not exceed 250 cubic yards of material shall be exempt pursuant to the provisions of WAC 173-27-040.
2. Moorage excavated from dry land shall be prohibited in all environments.
3. Recreational floats, launching ramps not accessory to residential structures, and launching rails not accessory to residential structures shall be permitted as a conditional use (“C”) in Pipe Lake shoreline jurisdiction, and shall be prohibited (“X”) in Big Soos Creek and Jenkins Creek shoreline jurisdiction.
4. Beach restoration and enhancement shall be permitted as a conditional use (“C”) in Pipe Lake shoreline jurisdiction, and shall be permitted as a Shoreline Substantial Development Permit or Shoreline Exemption (“P”) in Big Soos Creek and Jenkins Creek shoreline jurisdiction.

- (2) All shoreline modification activities shall be in support of a permitted shoreline use that is in conformance with the provisions of this Master Program unless it can be demonstrated that such activities are necessary and in the public interest.
- (3) Shoreline modification projects shall avoid and then minimize adverse impacts to the environment to the greatest extent feasible, and where such impacts cannot be avoided, mitigation shall be provided to achieve no net loss of shoreline ecological functions. Mitigation sequencing as set forth in CMC 16.05.230(3) of this chapter shall be required.
- (4) All shoreline modification activities within the City shall comply with all other regulations as stipulated by state and federal agencies, local Tribes, or others with jurisdiction.
- (5) Professional design, as approved by the City, shall be required for all shoreline modification structures.

**16.05.410 Shoreline stabilization.**

(1) General standards.

(a) All clearing and grading activities associated with shoreline stabilization shall adhere to the requirements of the City's code pertaining to land, clearing, and grading (CMC Chapters 18.45 and 18.60) and the vegetation management provisions set forth in CMC 16.05.250 of this chapter.

(b) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. Where allowed, replacement shall be subject to the following standards:

(i) The replacement structure is designed, located, sized, and constructed and mitigation is provided as necessary to ensure no net loss of ecological functions.

(ii) Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing stabilization structure unless as provided below and in subsection (3)(c) of this section.

(iii) Where existing structural stabilization is replaced by soft shoreline stabilization using bioengineering techniques and results in a documented improvement of shoreline functions, such stabilization may be allowed waterward of the ordinary high water mark subject to state and federal approvals.

(c) Shoreline stabilization shall not be used to create new land.

(d) New structural (soft and hard) stabilization measures and enlargement of existing structural stabilization measures shall be limited to the minimum size necessary and shall be permitted only when it has been conclusively demonstrated through analysis in a geotechnical report prepared by a qualified professional that shoreline stabilization is necessary to protect existing primary structures, public improvements, ecological restoration projects or hazardous substance remediation projects from erosion, and that nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient.

In such cases, soft structural solutions shall be used if feasible. The geotechnical report shall evaluate the necessity of structural stabilization measures by estimating timeframes and rates of erosion (damage within 3 years), urgency of replacement, alternative solutions and other pertinent factors. Non-structural solutions include (but are not limited to) soil bioengineering, beach enhancement, alternative site designs, drainage improvements and increased building setbacks (for proposed structures).

(f) All new shoreline development, including the division of land into new parcels, shall be located and designed to prevent the need for shoreline stabilization activities based on geotechnical analysis.

(g) New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.



(h) New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas is prohibited, and where stabilization is allowed, impacts to sediment transport shall be avoided or minimized and stabilization measures shall be specifically designed so as not to create a need for shoreline stabilization elsewhere.

(i) Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface drainage into adjacent or nearby water bodies.

(j) Shoreline stabilization shall be designed so as not to constitute a hazard to navigation and to not substantially interfere with visual access to the water.

(k) Public access shall be required as part of publicly financed shoreline stabilization measures unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant ecological impacts, unavoidable conflict with proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

(2) Soil bioengineering.

(a) All soil bioengineering projects shall use native plant materials appropriate to the specific area including trees, shrubs, and groundcovers, unless demonstrated infeasible for the particular site.

(b) Unless more specific and restrictive Critical Area Regulations apply, all cleared areas shall be replanted immediately following construction and irrigated (if necessary) to ensure that within three (3) years all vegetation is one hundred (100) percent reestablished to achieve no net loss of ecological functions of the shoreline area. Areas that fail to adequately reestablish vegetation shall be replanted with approved plant materials until such time as the plantings are viable. Additional performance standards may be established by the Shoreline Administrator in administrative rules.

(c) Bank stabilization in the form of a vegetated buffer zone shall be maintained (e.g., weeding, watering, dead plant replacement) for a minimum of three (3) years. The buffer zone shall exclude activities that could disturb the site. Where determined necessary by the Shoreline Administrator, fencing may be required to ensure protection of buffer plantings.

(d) All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.

(e) More specific and stringent performance standards, including relevant requirements from the City of Covington Critical Areas Regulations for shoreline jurisdiction, as set forth in CMC 16.05.230(2) of this chapter, may be required as a condition of permit issuance to ensure the proposal will result in no net loss of shoreline ecological functions.

(3) Bulkheads.

(a) Bulkhead design and development shall conform to the general standards as set forth in subsection (1) of this section and all other applicable local, state, and federal agency regulations.

(b) On shorelines where no other bulkheads are adjacent, the construction of a bulkhead shall tie in with the contours of the adjoining shorelines, as feasible, such that the proposed bulkhead shall not cause erosion of the adjoining properties.

(c) On all shorelines, bulkhead shall not be placed waterward of the ordinary high water mark, except as provided below:

(i) A replacement bulkhead protecting a primary residence may encroach waterward of the ordinary high water mark or existing bulkhead if the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such a case, the replacement bulkhead shall abut the existing shoreline stabilization structure.

(ii) Bulkheads may tie in flush with existing bulkheads on adjoining properties, provided that the new bulkhead does not extend waterward of the ordinary high water mark, except to the degree necessary to make the connection to the adjoining bulkhead. In such circumstances, the remaining portion of the bulkhead shall be placed landward of the existing ordinary high water mark such that no net loss of aquatic area occurs and the design complies with all other regulations as stipulated by state and federal agencies, local Tribes, and others with jurisdiction.

(d) When a bulkhead is required at a public access site, provisions for safe public access to the water shall be incorporated into bulkhead design.

(e) Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of the bulkhead.

(f) Fill landward of bulkheads shall be limited to an average of one (1) cubic yard per linear foot of bulkhead. Any filling in excess of this amount shall be considered a regulated activity subject to the policies and regulations of this Master Program pertaining to fill activities and the requirement for obtaining a shoreline substantial development permit.

(4) Weirs.

(a) New weirs shall be prohibited.

(b) Repair and maintenance of existing weirs shall be permitted, provided that no more environmentally beneficial solution, including removal or modification of the weir, is feasible.

(c) Replacement of existing weirs may be permitted provided that construction is conducted using natural materials and consistent with other applicable provisions of this Master Program.

(5) Breakwaters, jetties, and groins shall be prohibited.

(6) Shoreline stabilization using beach substrate enhancement shall be subject to the provisions of CMC 16.05.450, Shoreline habitat and ecological enhancement, of this chapter.

**16.05.420 Dredging and dredge spoil disposal.**

(1) General standards.

(a) Dredging and disposal of dredge spoils shall avoid, then minimize significant ecological impact; impacts that cannot be avoided shall be mitigated to achieve no net loss of ecological processes and functions. Proposals for dredging and dredge disposal shall include details on all feasible mitigation measures to protect aquatic habitats.

(b) Dredging and dredge spoil disposal is prohibited in wetlands, except for the purposes of enhancing valuable wetland functions. A design prepared by a qualified wetland scientist is required prior to allowing dredging and/or disposal of dredge spoils into a wetland.

(c) The City of Covington may impose limitations on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.

(d) New development siting and design shall avoid the need for new and maintenance dredging.

(2) Dredging.

(a) Dredging may be permitted as a conditional use activity only:

(i) When necessary to support a water-dependent use or navigation;

(ii) For expansion nor alteration of public utility facilities or bridges within a public right-of-way, when there is a documented need and where other feasible sites or routes do not exist;

- (iii) As part of approved mitigation actions, environmental restoration, and habitat enhancement projects;
  - (iv) To improve water quality;
  - (v) To improve water flow or manage flooding when a biological and geomorphological study demonstrates a long-term benefit to hazard reduction and the action is part of a comprehensive flood management solution; or
  - (vi) To clean up contaminated sediments.
- (b) Where dredging is permitted pursuant to subsection (a) above, the applicant shall demonstrate that applicable permits of other local, state, and federal agencies have been obtained, and shall demonstrate using technical information produced by a qualified professional that:
- (i) Water circulation, littoral drift, aquatic life, and water quality will not be substantially impaired; and
  - (ii) Other solutions would result in greater environmental impact.
- (c) Dredging to establish, expand, relocate, or reconfigure navigation channels consistent with subsection (a)(i) above shall be allowed only where needed to accommodate existing navigational uses, and then only when significant ecological impacts are minimized and when mitigation is provided consistent with required mitigation sequencing.
- (d) Maintenance dredging of established navigation channels and basins shall be restricted to maintaining the previously dredged and/or existing authorized location, depth and width.
- (e) When dredging is permitted, the extent of dredging shall be the minimum necessary to accommodate the proposed use.
- (f) Dredging for the primary purpose of obtaining fill or construction material is prohibited.
- (g) Dredging shall be timed so that it does not interfere with aquatic life.
- (h) Dredging shall utilize techniques (such as hydraulic dredging instead of agitation dredging) that cause minimal dispersal and broadcast of bottom material.
- (i) Dredging landward of the ordinary high water mark is considered excavation and shall be subject to the regulations set forth in CMC 16.05.430 of this chapter.
- (3) Dredge spoil disposal.
- (a) Disposal of dredge spoils shall be done only in approved sites.
  - (b) Dredging material that will not subsequently cause violation of State Water Quality Standards may be used in permitted landfill projects.
  - (c) Individual disposal operations shall comply with Department of Natural Resources leasing practices, the Department of Ecology Water Quality Certification process, and the permit requirements of the State Department of Fish and Wildlife and the U.S. Army Corps of Engineers.
  - (d) Dredge spoil disposal waterward of the ordinary high water mark may be allowed only by conditional use permit for one or more of the following circumstances:
    - (i) For wildlife habitat improvement;
    - (ii) To correct problems of material distribution adversely affecting fish;
    - (iii) For permitted beach enhancement;

(iv) When the alternative of depositing material on land is demonstrated to be more detrimental to shoreline resources than depositing in water areas; or

(v) In approved open-water disposal sites as identified by appropriate agencies.

(e) If suitable alternatives for land disposal are not available or are infeasible consistent with subsection (d)(iv), above, water disposal sites shall be identified consistent with the following criteria:

(i) Sites shall not interfere with geo-hydrologic processes;

(ii) Dredge spoils have been analyzed by qualified personnel and found to be non-polluting;

(iv) Aquatic life will not be adversely affected; and

(v) The sites and method of disposal shall meet all requirements of applicable regulatory agencies.

(f) Dredge disposal within the channel migration zone of Jenkins Creek, Big Soos Creek or any other stream is prohibited, unless part of an approved fish habitat improvement project and studies indicate it is consistent with the criteria in subsection (e), above.

(g) Any significant placement of materials from off-site (other than surcharge or pre-load), or the substantial creation or raising of dry upland shall be considered fill and shall also comply with the fill provisions of CMC 16.05.430 of this chapter.

**16.05.430 Fill and excavation.**

(1) All fill and excavation activities shall adhere to the requirements of Chapter 14.60 CMC Clearing and Grading Regulations.

(2) Fill, excavation, and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development.

(3) All shoreline development shall comply with the applicable requirements of the most recent edition of the adopted Surface Water Design Manual and all applicable City stormwater regulations. The City shall rely on source control standards and other BMPs contained in the most recent version of the Department of Ecology Stormwater Management Manual for Western Washington and the Low Impact Development Manual: Technical Guidance for Puget Sound.

(4) Stabilization of exposed erosion-prone surfaces within the shoreline environment shall, wherever feasible, utilize soil bioengineering techniques.

(5) Fills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area.

(6) All perimeters of fills shall be provided with vegetation, retaining walls, or other satisfactory mechanisms for erosion prevention and sediment capture.

(7) Fill proposals must demonstrate, at a minimum, that they will result in no net loss of shoreline ecological functions.

(8) Fill shall be permitted only where it is demonstrated that the proposed action will not:

(9) No refuse disposal sites, solid waste disposal sites, or sanitary fills shall be permitted along the Pipe Lake shoreline in Covington.

(10) Fill waterward of the ordinary high water mark shall be permitted as a conditional use only:

(a) In conjunction with a water-dependent or public use permitted by this Master Program;

(b) In conjunction with a bridge for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist; or

(c) For fisheries, aquaculture, or wildlife enhancement projects.

(11) Excavation on beaches shall include precautions to prevent the migration of fine grain sediments, disturbed by the excavation, onto adjacent beach areas. Excavation on beaches shall be backfilled promptly using material of similar composition and similar or coarser grain size.

**16.05.440 Overwater structures.**

(1) General standards.

(a) All new, reconstructed, repaired, or modified overwater structures shall comply with the Critical Areas Regulations for shoreline jurisdiction as set forth in CMC 16.05.230(2) meet the requirement for no net loss of ecological functions; and comply with all other regulations as stipulated by state and federal agencies, local Tribes, and others with jurisdiction.

(b) With the exception of bridges, overwater structures are prohibited in Soos Creek and Jenkins Creek shoreline jurisdiction.

(c) Proposed overwater structures that are not accessory to a residential development and are not joint-use structures may be permitted as a conditional use subject to the following requirements:

(i) The overwater structure does not create any potential adverse impacts to navigation or public safety;

(ii) The overwater structure does not cause environmental impacts that cannot be sufficiently mitigated;

(iii) The overwater structure complies with all other conditional use criteria as set forth in WAC 173-27-160 and CMC 16.05.090 of this Master Program; and

(iv) The overwater structure complies with the provisions of this section applicable to overwater structures that are accessory to residential development.

(d) Development on or over the water shall be constructed as far landward as possible to avoid interference with views from surrounding properties to the shoreline and adjoining waters.

(e) Construction of residential development on an overwater structure shall be prohibited.

(f) Proposed overwater structures that do not comply with the applicable dimensional standards set forth in this section shall be approved only through a shoreline variance.

(g) All overwater structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe overwater structures shall be removed or repaired promptly by the owner.

(h) Piles, floats, or other structures in direct contact with water shall not be treated or coated with herbicides, fungicides, paint, or pentachlorophenol.

(i) Boathouses, boat lifts, moorage piles, and moorage covers shall be prohibited.

(2) Piers and docks.

(a) When allowed. New piers and docks shall be allowed:

(i) As an accessory to a permitted residential development, provided it is designed and intended as a facility for access to watercraft and subject to the provisions of subsection (b) of this section; or

(ii) For public access or as an accessory to a permitted water-dependent use, when intended for public use or when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.

(b) Where proposed as an accessory to a residential development, piers and docks shall comply with the following provisions:

(i) No more than one (1) pier or dock for each single-family residence shall be permitted.

(ii) On lots with less than fifty (50) feet of waterfront, joint-use piers/docks shall be required, except when both lots abutting the subject lot have legal pre-existing piers or docks and the applicant demonstrates to the satisfaction of the Shoreline Administrator that a shared use agreement is not feasible. Only in this case may a lot with less than fifty (50) feet of waterfront be permitted an individual pier or dock.

(iii) For residential development of more than two (2) dwellings, a joint-use pier/dock or community dock facility shall be required rather than individual docks unless the applicant demonstrates to the satisfaction of the Shoreline Administrator that a joint-use or community facility is not feasible.

(c) Dimensional standards.

(i) No portion of the deck of a pier shall, during the course of the normal fluctuations of the elevation of the water body, protrude more than five (5) feet above the ordinary high water mark.

(ii) All pier and dock lengths shall be minimized to the maximum extent feasible and shall comply with regulations as stipulated by state and federal agencies, local Tribes, and others with jurisdiction. The proposed length shall be the minimum necessary to support the intended use. The maximum waterward intrusion as measured from the ordinary high water mark of any portion of any pier or dock shall be limited to the following:

(A) Forty (40) feet for a single property owner.

(B) Fifty (50) feet for a joint-use structure utilized by two or more residential property owners.

(C) Eight (80) feet for a pier that allows public access.

(iii) The maximum square footage of ells and fingers shall be one hundred twenty (120) square feet.

(iv) The maximum width of walkways and additional fingers shall be minimized to the maximum extent practical. All walkways shall be fully grated and ells and floats shall have a minimum two-foot strip of grating down the center.

(v) Surface coverage, including all floats, ramps, and ells, shall be limited to the following:

(A) Four hundred (400) square feet for a single property owner.

(B) Six hundred (600) square feet for a joint-use structure utilized by two or more residential property owners.

(C) Eight hundred (800) square feet for a pier that allows public access.

(3) Launching rails and ramps.

(a) Launching rails may be permitted as a conditional use in the Shoreline Residential environment and in the Pipe Lake Urban Conservancy environment when not accessory to residential structures, in lieu of a moorage pier or dock, provided that the following requirements are met:

(i) The applicant shall demonstrate that the proposed length of the rail is the minimum necessary to safely launch the intended craft and comply with all regulations as stipulated by state and federal agencies, local Tribes, and others with jurisdiction;

(ii) In no case shall the rail extend beyond the point where the water depth is ten (10) feet below the ordinary high water mark;

(iii) The rail shall be anchored to the ground with the use of tie-type construction; and

(iv) No more than one (1) launching rail per single-family residence or duplex shall be permitted.

(b) Launching ramps may be permitted as a conditional use for recreational uses in the Pipe Lake Urban Conservancy environment, provided that the following requirements are met:

(i) The applicant demonstrates that the proposed length of the ramp is the minimum necessary to safely launch the intended craft and comply with all regulations as stipulated by state and federal agencies, local Tribes, and others with jurisdiction; and

(ii) In no case shall the ramp extend beyond the point where the water depth is ten (1) feet below the ordinary high water mark.

(4) Floats.

(a) Recreational floats shall be designed and intended for swim use or other non-motorized use.

(b) Recreational floats shall have fully grated decks.

(c) Retrieval lines shall not float at or near the surface of the water.

(d) All float tubs shall be fully encapsulated.

(e) Floats shall have reflectors for nighttime visibility.

(f) Dimensional standards.

(i) Area. The area of a recreational float shall be minimized to the maximum extent feasible and shall comply with regulations as stipulated by state and federal agencies, local Tribes, and others with jurisdiction. No recreational float shall be greater than two hundred (200) square feet in area.

(ii) Height. Recreational floats shall be built so that the deck surface is one (1) foot above the water's surface.

(iii) Distance waterward from the ordinary high water mark. Recreational floats shall be in water with depths of eight (8) feet or more at the landward end of the float and may be located up to a maximum waterward distance of fifty (50) feet, or where the water depth is demonstrated safe for swimming, whichever is reached first.

**16.05.450 Shoreline habitat and ecological enhancement.**

(1) Beach/bank restoration and enhancement.

(a) Beach restoration and enhancement along Big Soos and Jenkins Creeks shall be subject to the Critical Areas Regulations for shoreline jurisdiction as set forth in CMC 16.05.230(2) of this chapter.

(b) Beach enhancement along Pipe Lake may be permitted when the applicant has demonstrated that the project will not detrimentally interrupt littoral processes; redirect waves, current, or sediment to other shorelines; or adversely affect adjacent properties or habitat.

(2) Natural beach restoration/enhancement.

(a) Design standards. Natural beach restoration/enhancement shall not:

- (i) Extend waterward more than the minimum amount necessary to achieve the desired stabilization;
- (ii) Disturb significant amounts of valuable shallow water fish or wildlife habitat without appropriate mitigation of the impacts.

(b) Construction standards:

- (i) The size and/or mix of new materials to be added to a beach shall be as similar as possible to that of the natural beach sediment, but large enough to resist normal current, wake, or wave action at the site.
- (ii) The restored beach shall approximate, and may slightly exceed, the natural beach width, height, bulk, or profile, but not so much as to obviously create additional dry land.

(c) Beach enhancement is prohibited within fish and/or wildlife spawning, nesting, or breeding habitat that would be adversely affected by it and also where littoral drift of the enhancement materials would adversely affect adjacent spawning grounds or other areas of biological significance.

(3) Where a shoreline habitat or ecological enhancement project results in a change in the location of the ordinary high water mark and associated shoreline jurisdiction on the subject property and/or adjacent properties, and where application of the provisions of this Master Program would preclude or interfere with the uses permitted by the underlying zoning, thus presenting a hardship to the project proponent, relief may be granted from the provisions of this Master Program consistent with the following requirements:

- (a) The proposed relief is the minimum necessary to relieve the hardship;
- (b) After granting the proposed relief, there is net environmental benefit from the restoration project;
- (c) Granting the proposed relief is consistent with the objectives of the shoreline restoration project and with this Master Program;
- (d) The shoreline restoration project does not provide mitigation required to obtain a development permit; and
- (e) The application for relief is reviewed and approved by the Department of Ecology.



**Chapter 18.65**  
**CRITICAL AREAS**

Sections:

Article I. General Provisions and Administration

- 18.65.010 Purpose.
- 18.65.020 Applicability.
- 18.65.030 Appeals.
- 18.65.040 Critical areas rules.
- 18.65.045 Relationship to other regulations.
- 18.65.046 Fees.
- 18.65.047 Exemptions.
- 18.65.048 Partial exemptions.
- 18.65.049 Unauthorized alterations and enforcement.
- 18.65.050 Allowed alterations of critical areas.
- 18.65.060 Agricultural and keeping of livestock activities development standards.
- 18.65.062 Shoreline variance required.
- 18.65.070 Public agency/utility exceptions.
- 18.65.075 Reasonable use exception.
- 18.65.090 Disclosure by applicant.
- 18.65.100 Critical area review.
- 18.65.110 Critical area report requirement.
- 18.65.120 Sequential steps for mitigation, including avoiding impacts.
- 18.65.130 Mitigation and monitoring.
- 18.65.135 Off-site mitigation.
- 18.65.140 Financial guarantees.
- 18.65.160 Critical area markers, signs, fencing and installation.
- 18.65.170 Recording notice on title of critical areas.
- 18.65.180 Critical area tracts and designations on site plans.
- 18.65.200 Building setbacks from critical area buffer.

Article II. Frequently Flooded Areas

- 18.65.230 Frequently flooded areas.

Article III. Geologically Hazardous Areas

- 18.65.250 Applicability and designation – Geologically hazardous areas.
- 18.65.260 Erosion hazard areas – Development standards and permitted alterations.
- 18.65.270 Erosion and seismic hazard areas – Protection measures and specific mitigation.
- 18.65.280 Landslide hazard areas – Development standards and alterations.
- 18.65.290 Steep slope hazard areas – Development standards and alterations.
- 18.65.300 Additional critical area report requirements – Geologically hazardous areas.

Article IV. Critical Aquifer Recharge Areas

- 18.65.311 Critical aquifer recharge areas –Designation.
- 18.65.312 Critical aquifer recharge areas – Reclassification or declassification.
- 18.65.313 Critical aquifer recharge areas – Categories.
- 18.65.314 Critical aquifer recharge areas – Protection.
- 18.65.315 Critical aquifer recharge areas – Development regulations.
- 18.65.316 Critical aquifer recharge areas – Evaluation and implementation.

#### Article V. Wetlands

- 18.65.318 Wetland – Identification and evaluation.
- 18.65.319 Wetlands – Classes and categories.
- 18.65.320 Wetlands – Buffers.
- 18.65.340 Wetlands – Specific mitigation requirements.

#### Article VI. Fish and Wildlife Habitat Conservation Areas

- 18.65.350 Fish and wildlife habitat conservation areas – Applicability.
- 18.65.355 Fish and wildlife habitat conservation areas – Designation and purpose.
- 18.65.358 Fish and wildlife habitat conservation areas – Classification.
- 18.65.360 Streams – Standard buffers.
- 18.65.365 Streams and associated buffers – Development standards and alterations.
- 18.65.370 Streams – Permitted alterations.
- 18.65.375 Streams – Removal from culverts and pipes.
- 18.65.380 Streams – Specific mitigation requirements.
- 18.65.385 Naturally occurring ponds, less than 20 acres in area, and their submerged aquatic beds that provide fish or wildlife habitat.
- 18.65.390 Other fish and wildlife habitat conservation areas – Development standards.
- 18.65.395 Fish and wildlife habitat corridors and networks.
- 18.65.400 Fish and wildlife habitat conservation areas – Modification.
- 18.65.405 Fish and wildlife habitat conservation areas – Mitigation standards.
- 18.65.410 Fish and wildlife habitat conservation areas – Additional provisions for critical areas report.
- 18.65.420 Process to identify additional species and habitat of local importance.
- 18.65.430 Fish protection measures.
- 18.65.440 Endangered, threatened, and sensitive species protection measures.

#### Article I. General Provisions and Administration

##### **18.65.010 Purpose.**

The purpose of this chapter is to implement the goals and policies of the Growth Management Act, Chapter 36.70A RCW, Washington State Environmental Policy Act, Chapter 43.21C RCW, and the Covington Comprehensive Plan, which call for protection of the natural environment and the public health and safety by:

- (1) Establishing development and alteration standards to protect functions and values of critical areas;
- (2) Protecting members of the general public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, seismic and volcanic events, soil subsidence or steep slope failures;
- (3) Protecting unique, fragile and valuable elements of the environment including but not limited to fish and wildlife and their habitats and maintaining and promoting City-wide native biodiversity;
- (4) Requiring mitigation of unavoidable impacts to critical areas by regulating alterations in or near critical areas;
- (5) Preventing cumulative adverse environmental impacts on water availability, water quality, ground water, wetlands and streams;
- (6) Measuring the quantity and quality of wetland and stream resources and preventing overall net loss of wetland and stream functions;
- (7) Protecting the public trust as to navigable waters, aquatic resources, and fish and wildlife and their habitat;
- (8) Meeting the requirements of the National Flood Insurance Program;

(9) Alerting members of the public including but not limited to appraisers, owners, potential buyers or lessees to the development limitations of critical areas; and

(10) Providing City officials with sufficient information to protect critical areas. (Ord. 06-17 § 4 (Exh. B))

**18.65.020 Applicability.**

(1) This chapter applies to all land uses, activity, and development in the City of Covington, and all persons within the City shall comply with this chapter.

(2) City shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water or vegetation or to construct or alter any structure or improvement without first ensuring compliance with this chapter.

(3) Approval of a development proposal in accordance with this chapter does not discharge the obligation of the applicant to comply with this chapter.

(4) This chapter applies to all forest practices over which the City has jurisdiction under Chapter 76.09 RCW and WAC Title 222.

(5) Unless exempted in CMC 18.65.047 or 18.65.048, these critical area regulations shall apply to all developments within one or more of the following critical areas or their associated buffers, regardless of whether the site has been previously identified as a critical area. Critical areas include any of the following areas or ecosystems as defined in RCW 36.70A.030 and WAC 365-190.030 and the corresponding buffers and setbacks:

- (a) Frequently flooded areas;
- (b) Geologically hazardous areas;
- (c) Critical aquifer recharge areas;
- (d) Wetlands; and
- (e) Fish and wildlife habitat conservation areas (includes streams). (Ord. 06-17 § 4 (Exh. B))

**18.65.030 Appeals.**

An applicant may appeal a decision under this chapter to approve, condition or deny a development proposal according to and as part of the appeal procedure for the underlying permit or approval involved. (Ord. 06-17 § 4 (Exh. B))

**18.65.040 Critical areas rules.**

The City of Covington is authorized to adopt, in accordance with Chapter 2.75 CMC, such public rules and regulations as are necessary and appropriate to implement this chapter and to prepare and require the use of such forms as are necessary to its administration. (Ord. 06-17 § 4 (Exh. B))

**18.65.045 Relationship to other regulations.**

(1) Nothing in this chapter in any way limits, or may be construed to limit, the authority of the City under any other applicable law, nor in any way decreases the responsibility of the applicant to comply with all applicable local, State and Federal laws and regulations.

(2) These critical areas regulations shall apply in addition to zoning and other regulations adopted by the City.

(3) When any other chapter of the Covington Municipal Code conflicts with this chapter or when the provisions of this chapter are in conflict, the provision that provides more protection to environmentally critical areas shall apply unless specifically provided in this chapter or unless the provision conflicts with Federal or State laws or regulations.

(4) Compliance with the provisions of this chapter does not constitute compliance with other Federal, State, and local regulations and permit requirements that may be required. The applicant is responsible for complying with these requirements, in addition to the process established in this chapter.

(5) If any provisions of this chapter are in conflict with any part of the City's Shoreline Master Program, herein referenced as the City's SMP, ~~adopted under Ordinance No. 05-11~~ and codified as Chapter 16.05 CMC, the regulations in RCW 90.58.020 shall apply, as determined by the City.

(6) Provisions of this chapter that are not consistent with the State Shoreline Management Act, Chapter 90.58 RCW and supporting Washington Administrative Code chapters, shall not apply to the City's shoreline jurisdiction.

(7) Critical areas within shoreline jurisdiction. ~~Critical areas, critical area buffers, and shoreline buffers located within shoreline jurisdiction, as defined in CMC 16.05.040, shall be regulated by this chapter, with the following clarifications and modifications. Additional clarifications and modifications are included where applicable in the body of this chapter, are regulated by the City of Covington Critical Areas Regulations for Shoreline Jurisdiction, as contained in and herein referenced as SMP Appendix A. Although these regulations are similar to the critical areas regulations codified in this chapter, pursuant to the requirements of the Shoreline Management Act, these regulations are distinct. Certain key critical area provisions, including the reasonable use exception, do not apply in shoreline jurisdiction. Deviations from the critical areas regulations as set forth in SMP Appendix A are processed as a shoreline variance process provided in the City's SMP Chapter 8: Administration for discussion of shoreline permits. If there are conflicts between the regulations contained in the SMP, those that are the most protective of shoreline ecological functions will apply. (Ord. 06-17 § 4 (Exh. B))~~

~~(a) The reasonable use exception provisions (CMC 18.65.075) and the public agency/utility exception provisions (CMC 18.65.070) of this chapter shall not apply in shoreline jurisdiction. Exceptions within shoreline jurisdiction shall require a shoreline variance based on the variance criteria listed in CMC 16.05.090 and WAC 173-27-170.~~

~~(b) The allowed alteration provisions of CMC 16.05.050 shall not apply to Type S waters (shorelines of the state) or their buffers (shoreline buffers). Activities and alterations to shorelines of the state and their buffers shall be subject to the provisions of Chapter 16.05 CMC.~~

~~(c) Shoreline buffer widths are defined in CMC 16.05.280.~~

~~(d) Future amendments to this chapter shall require Ecology approval of an amendment to Chapter 16.05 CMC to incorporate updated language.~~

~~(e) If provisions of this chapter conflict with provisions of Chapter 16.05 CMC, the provisions most protective of the ecological resource shall apply, as determined by the City.~~

~~(f) If there are provisions of this chapter that are not consistent with the Shoreline Management Act, Chapter 90.58 RCW, and supporting Washington Administrative Code chapters, those provisions shall not apply in shoreline jurisdiction.~~

#### **18.65.046 Fees.**

(1) Fees shall be collected for the permit administration, plan review and other services provided by the City for critical areas review consistent with the critical area review fees set forth in the current fee resolution. Fees shall include but not be limited to cost recovery for engineering and planning review time, site inspection time, administration, third-party peer review, and any other special costs attributable to the critical areas review process.

(2) The applicant shall be responsible for the initiation, preparation, submission, and expense of all required reports, assessments, studies, plans, reconnaissance, or other work prepared in support of or necessary to review the application, unless otherwise provided in this title.

(3) In addition to critical area review fees, as set forth in this section, other fees required by the Covington Municipal Code may be applicable to the critical area review and associated application, including but not limited to Shoreline Management Act, SEPA, tree preservation, and clearing and grading review fees. (Ord. 06-17 § 4 (Exh. B))

**18.65.047 Exemptions.**

The following activities and developments are exempt from the provisions of this chapter. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas. An exemption from this chapter is not an endorsement to degrade a critical area, ignore risk from natural hazards, or otherwise limit the ability of the Director to identify and abate such actions that may cause degradation to a critical area.

- (1) Activities and development in response to emergencies that threaten public health, safety or welfare, or that pose an immediate risk of damage to property and that require remedial or preventive action in a time frame too short to allow for compliance with the requirements of this chapter. In the event a person determines that the need to take emergency action is so urgent that there is insufficient time for review by the Department, such emergency action may be taken immediately. Such action shall be reported to the Department within one working day of the commencement of the emergency activity on a form provided by the City. The Director will determine if the action was in response to an emergency and if any mitigation shall be required to protect health, safety, welfare, or environment or to repair any resource damage.
- (2) Operation, maintenance, or repair of existing public improvements, utilities, public roads, parks, trails, or drainage systems if the activity does not further alter or increase impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair, and no new clearing of native vegetation beyond routine pruning.
- (3) Normal maintenance and repair, internal reconstruction or remodeling or improvements to existing structures that do not increase the previously approved building footprint, provided the improvements or repairs are not the result of or required due to a flood or floodplain hazard.
- (4) Recreation, education, and scientific research activities that do not require grading, native vegetation clearing, or placement of structures.
- (5) Site reconnaissance necessary for preparing land use or building permit applications. Any disturbance of the critical area shall be the minimum necessary to conduct the site reconnaissance and the area shall immediately be restored to its previous condition.
- (6) Removal by hand of invasive and noxious vegetation. Removal by hand does not include using mechanical equipment or the use of herbicides.
- (7) Excavation of cemetery graves in established and approved cemetery. Maintenance, operation, or repair of the cemetery graves as long as any such alteration does not involve the expansion of improvements. (Ord. 06-17 § 4 (Exh. B))

**18.65.048 Partial exemptions.**

The following activities are partial exemptions to the provisions of this chapter and will require land use approval from the Director. The Director may require supporting application materials, such as documentation, prepared by a qualified professional to demonstrate compliance with partial exemptions:

- (1) Landscaping. Normal maintenance and continuation of existing landscaping and gardens, within an identified critical area, that were legally established prior to City incorporation, provided the area is not expanded. This partial exemption shall be documented by photographs, statements, and/or other evidence provided by the applicant. The use of herbicide is permitted in wetlands and streams and their buffers only for the control of invasive vegetation. A State and Federally approved registered aquatic formulation shall be applied by a licensed aquatic herbicide applicator in wetlands and streams.
- (2) Agricultural. Expansion or creation of agricultural uses within an identified critical area is not allowed subject to the provisions of this chapter. Agricultural activities in existence before the date of incorporation, in continuous operation, and for which the activity is supporting agricultural activity, are partially exempted from this chapter as follows:
  - (a) Mowing of hay, grass or grain crops;

- (b) Tilling, dicing, planting, seeding, harvesting and related activities for pasture, food crops, grass seed or sod if such activities do not take place on steep slopes;
- (c) Normal and routine maintenance of existing irrigation and drainage ditches not used by salmonids; and
- (d) Normal and routine maintenance of farm ponds, fish ponds, manure lagoons and livestock watering ponds.

(3) Demolition of Structures. The applicant shall submit demolition permit(s) and associated temporary erosion and sedimentation control plan, as applicable.

(4) Normal and Routine Maintenance. Clearing, pruning, removal of nuisance vegetation, and normal and routine maintenance of trees and vegetation shall be subject to permitting requirements in Chapters 14.60, [16.05](#), and 18.45 CMC. (Ord. 06-17 § 4 (Exh. B))

**18.65.049 Unauthorized alterations and enforcement.**

(1) When a critical area or its buffer has been altered in violation of this chapter, all ongoing development work shall stop and the critical area shall immediately and completely be restored prior to resuming development work. The City shall have the authority to issue a stop work order to cease all ongoing development work and order restoration, rehabilitation, or replacement measures at the owner's or violator's expense to compensate for violation of provisions of this chapter.

(2) Restoration Plan. All development work shall remain stopped until a restoration plan is prepared at the expense of the owner or violator and approved by the City. The plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in subsections (2)(a) and (b) of this section. The Director may, at the owner or violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the owner or violator for revision and resubmittal.

(a) For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area:

- (i) The historic structural and functional values shall be restored, including water quality and habitat functions;
- (ii) The historic soil types and configuration shall be replicated;
- (iii) The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and
- (iv) Information demonstrating compliance with CMC 18.65.130 (Mitigation and monitoring) shall be submitted to the Director.

(b) For alterations to flood hazard areas and geologically hazardous areas, the following minimum performance standards shall be met for the restoration of critical area:

- (i) The hazard shall be reduced to a level equal to, or less than, the predevelopment hazard;
- (ii) Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and
- (iii) The hazard area and buffers shall be replanted with native vegetation sufficient to minimize the hazard.

(3) Minimum performance standards identified in subsections (2)(a) and (b) of this section may be modified if the owner or violator can demonstrate that greater functional and habitat values can be obtained.

(4) Site Investigations. Site investigations necessary to enforce this chapter are authorized pursuant to Chapter 1.30 CMC.

(5) Penalties. Any development carried out contrary to the provisions of this chapter shall constitute a public nuisance and be subject to provisions of Chapter 1.30 CMC. (Ord. 06-17 § 4 (Exh. B))

**18.65.050 Allowed alterations of critical areas.**

(1) Within the following critical areas and their buffers alterations are allowed if the alteration complies with the sequential steps for mitigation, including avoiding impacts, applicable development standards, mitigation requirements, and other applicable requirements established in this chapter:

- (a) Critical aquifer recharge area;
- (b) Geologically hazardous areas:
  - (i) Landslide hazard area under 40 percent slope;
  - (ii) Erosion hazard area.

(2) Within the following four critical areas and their buffers only the alterations on the table in subsection (6) of this section are allowed if the alteration complies with conditions in subsection (7) of this section and the development standards, mitigation requirements and other applicable requirements established in this chapter:

- (a) Channel migration zone (CMZ) and riparian buffer zone (RBZ);
- (b) Geologically hazardous areas:
  - (i) Landslide hazard area with a 40 percent or greater slope;
  - (ii) Steep slope hazard area;
- (c) Wetland; and
- (d) Wildlife habitat conservation areas (including streams and natural ponds).

(3) The City may require other construction techniques, conditions, and restrictions on development in order to minimize adverse impacts on critical areas.

(4) The applicant is responsible for obtaining permits from the City for the allowed alterations pursuant to CMC 18.65.100. The request for an alteration may be submitted sequentially with other identified City permits or development review. The City may collect fees for the review of the alteration in accordance with CMC 18.65.046. The applicant is responsible for obtaining associated State and Federal permits as applicable and conditioned in this chapter.

(5) Activities and allowed alterations within a shoreline jurisdiction as identified in the City's SMP (Chapter 16.05 CMC), including Pipe Lake and Type S streams and shoreline buffers, shall ~~only comply with the shoreline modification regulations in Chapter 7 of the SMP~~ be subject only to the provisions set forth in Chapter 16.05 CMC, unless otherwise specified in that chapter.

(6) In the following table where an alteration is included in more than one activity category, the numbered conditions applicable to the most specific description of the alteration govern. Where more than one numbered condition appears for a listed alteration, each of the relevant conditions specified for that alteration within the given critical area applies. For alterations involving more than one critical area, compliance with the conditions applicable to each critical area is required.

Alteration*	Landslide Hazard Over 40% and Buffer	Steep Slope Hazard and Buffer	Wetland and Buffer	Stream and Buffer	Fish and Wildlife Conservation Area/Corridor Area
<p>KEY: Letter "A" in a cell means alteration is allowed consistent with the requirements of this chapter. If it is blank it is not allowed.  <del>*Activities within a shoreline jurisdiction must also comply with Table 4 of the City Shoreline Master Program (Ord. 05-11).</del></p>					
Construction of single detached dwelling unit			A 1, 2		
Construction of nonresidential structure			A 1, 2	A 1, 2	A 1, 2, 3
Construction of new dock or pier			A 4	A 4, 5	
Maintenance, repair or replacement of dock or pier			A 6	A 6	A 3
<b>Clearing and Grading</b>					
Grading (Chapter 14.60 CMC)		A 7		A 8	
Construction of new slope stabilization	A 9	A 9	A 9	A 9	
Maintenance of existing slope stabilization	A 10	A 7, 10	A 10	A 10	A 3, 10
Clearing (Chapters 14.60 and 18.45 CMC). Includes removal of brush, trees, noxious weeds or invasive vegetation and general maintenance not exempt in CMC 18.65.047 and 18.65.048	A 11	A 11, 12	A 11, 13	A 8, 11, 13	A 11
<b>Forest Practices</b>					
Nonconversion Class IV-G forest practice	A 14	A 14	A 14	A 14	A 14, 15
<b>Roads</b>					
Construction of new public road right-of-way	A 16	A 16	A 16	A 5, 16	A 16
Expansion of public right-of-way structure/facility, beyond established right-of-way for the purpose of maintenance, operation, repair, modification installation, or construction	A 9, 16	A 16	A 16	A 16	A 16
Construction of new driveway or private access road			A 2	A 2	A 2
<b>Bridges or Culverts</b>					
Maintenance or repair of bridge or culvert	A 10	A 10	A 10	A 10	A 10
Replacement of bridge or culvert	A 10	A 10	A 10	A 10, 17	A 10
Expansion of bridge or culvert	A 10	A 10	A 18	A 18	A 3
<b>Utilities and Other Infrastructure</b>					
Expansion or construction of new utility corridor or minor utility facility located beyond the established right-of-way or easement	A 19	A 19	A 29	A 29	A 3
Construction of a new well or on-site sewage disposal			A 30	A 30	
Maintenance, repair, expansion of a new well or on-site sewage disposal	A 2, 20, 21	A 2, 20, 21	A 2, 20, 21	A 2, 20, 21	A 3, 20, 21
Construction, maintenance, or expansion of surface water run off system, designed in accordance with Chapter 13.25 CMC, to provide surface water quality treatment	A 19	A 19	A 22		A 3



Alteration*	Landslide Hazard Over 40% and Buffer	Steep Slope Hazard and Buffer	Wetland and Buffer	Stream and Buffer	Fish and Wildlife Conservation Area/Corridor Area
KEY: Letter "A" in a cell means alteration is allowed consistent with the requirements of this chapter. If it is blank it is not allowed. <del>*Activities within a shoreline jurisdiction must also comply with Table 4 of the City Shoreline Master Program (Ord. 05-11).</del>					
Maintenance, repair, or replacement of flood protection facility	A 23	A 23	A 23	A 23	A 23
Construction of new in-stream structure or in-stream work or maintenance or repair of in-stream structure	A 10	A 10	A 10	A 10, 24	A 3
<b>Recreation Areas</b>					
Construction of a new publicly accessible nonmotorized trail	A 25	A 25	A 25	A 5, 25	A 3, 25
Maintenance of outdoor public park facility, trail, or improved recreation area	A 26	A 26	A 26	A 26	A 3, 26
<b>Habitat and Science Projects</b>					
Habitat restoration or enhancement project	A 27	A 27	A 27	A 27	A 3, 27
Scientific sampling for salmonids			A 28	A 28	A 3, 28

(7) The following alteration conditions apply to the table in subsection (6) of this section:

1. May be permitted pursuant to the reasonable use exception permit process in CMC 18.65.075.
2. Pursuant to sequential avoidance measures and specific mitigation requirements for the impacted critical area in CMC 18.65.120 through 18.65.130.
3. Allowed if no clearing, external construction or other disturbance in a wildlife habitat conservation area occurs during active breeding seasons of any species with a habitat that is identified as requiring protection pursuant to CMC 18.65.390.
4. Limited to seasonal floating docks or piers in a Category II, III or IV wetland or stream and associated buffers. Docks and piers proposed along a shoreline, designated as a shoreline of the State, are subject to the regulations in the SMP ~~Appendix A~~.
  - a. The existing and zoned density of all properties abutting the entire lake shoreline averages three dwelling units per acre or more;
  - b. At least 75 percent of the lots abutting the shoreline or 75 percent of the lake frontage, whichever constitutes the most lake frontage, has been developed with dwelling units;
  - c. There is not any significant vegetation where the alteration is proposed and the loss of vegetation was not the result of any violation of law; and
  - d. The wetland or lake shoreline is not a salmonid spawning area.
5. Not allowed within a severe channel migration hazard area portion of a stream buffer.
6. Allowed in Category II, III or IV wetland or streams and associated buffers subject to the following conditions. Maintenance, repair or replacement of a dock or pier along a shoreline, designated as a shoreline of the State, is subject to the regulations in ~~the SMP Appendix A~~:
  - a. There is not an increase in the number of pilings or the overall width and length of the dock or pier;

- b. Hazardous substances or toxic materials are not used;
  - c. All piers and docks shall result in no net loss of ecological functions. Docks and piers, including those accessory to single-family residences, shall minimize and mitigate adverse impacts to the stream ~~shoreline~~ and its buffers; and
  - d. There is not an increase in shade for predator species.
7. Limited to regrading and stabilizing of a slope formed as a result of a legal grading activity consistent with Chapter 14.60 CMC.
8. The following are allowed if conducted more than 115 feet from the ordinary high water line:
- a. Grading of up to 50 cubic yards on lot less than five acres, with an approved clearing and grading permit consistent with Chapter 14.60 CMC; and
  - b. Clearing of up to 1,000 square feet or up to a cumulative 35 percent of the lot, with an approved clearing and grading permit consistent with Chapter 14.60 CMC.
9. Only permitted where erosion or landsliding threatens a structure, utility facility, roadway, driveway, public trails, stream or wetland if, to the maximum extent practical, stabilization work does not disturb the slope and its vegetative cover and any associated critical areas as evaluated in a critical area report prepared by a geotechnical engineer or engineering geologist licensed in the State.
- ~~a. Within a shoreline jurisdiction area new stabilization structures for existing primary residential structures are allowed only where no alternatives (including relocation or reconstruction of existing structures) are feasible and less expensive than the proposed stabilization measures, and then only if no net loss of ecological functions will result.~~
10. Allowed when performed by or at the direction of a government agency as follows:
- a. Construction methods will reduce or not adversely affect geologic hazards;
  - b. Use of retaining walls that allow maintenance of existing natural slope areas are preferred over graded artificial slopes, unless an alternative design provides equivalent or greater long-term slope stability;
  - c. The maintenance does not involve the use of herbicides, hazardous substances, sealants, or other liquid oily substances in streams, wetlands or their buffers; and
  - d. When maintenance involves work over and within water:
    - i. The maintenance is compliant with Washington State Department of Ecology and other applicable State and Federal agencies; and
    - ii. The maintenance of culverts is limited to removal of sediment and debris from the culvert and its inlet, invert and outlet and the stabilization of the disturbed or damaged bank or channel immediately adjacent to the culvert and shall not involve the excavation of a new sediment trap adjacent to the inlet.
11. Allowed for the removal of hazard trees and vegetation as necessary pursuant to the following:
- a. Vegetation removal allowed only in buffers for the purpose of enhancing tree growth within the tree canopy area, as determined by a certified biologist in a critical area report subject to mitigation measures as applicable.
  - b. Removal of noxious and invasive weeds shall be undertaken with hand labor unless otherwise authorized by the King County Noxious Weed Control Board to use riding mowers or light mechanical cultivating equipment and herbicides or biological control methods:

- i. The area is stabilized to avoid re-growth or regeneration of noxious weeds, and
    - ii. The cleared area is revegetated with native or noninvasive vegetation and stabilized against erosion.
  - c. Clearing, pruning, removing, and normal and routine maintenance of trees shall be subject to the regulation, mitigation and permit requirements set forth in Chapters 14.60 and 18.45 CMC.
12. The limited trimming and pruning of vegetation if the soils are not disturbed and the activity will not adversely affect the long-term stability of the slope, erosion or water quality.
13. Harvesting of plants and plant materials, such as plugs, stakes, seeds or fruits, for restoration and enhancement projects is allowed.
14. Only if in accordance with Chapter 76.09 RCW and WAC Title 222 and:
  - a. A long-term management plan is approved for the site by the City; and
  - b. The property owner provides a notice of intent in accordance with RCW 76.09.060 that the site will not be converted to nonforestry uses within six years.
15. Only if in compliance with published Washington State Department of Fish and Wildlife and Washington State Department of Natural Resources management standards for the species. If there are no published Washington State standards, only if in compliance with management standards determined by the Director to be consistent with best available science.
16. Allowed only if:
  - a. There is not another feasible location with less adverse impact on the critical area and its buffer, consistent with CMC 18.65.120;
  - b. The roadway is not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the State or Federal government unless the Department determines there is no other feasible crossing site;
  - c. The roadway width is minimized to the extent practical;
  - d. The construction occurs during approved periods for in-stream and wetland work; and
  - e. The roadway will not change or diminish the overall stream flow peaks, duration or volume, flood storage capacity and wetland function.
17. Allowed only if:
  - a. The replacement is made fish passable in accordance with Washington State Department of Fish and Wildlife Habitat and Lands Environmental Engineering Division's Fish Passage Design Manual or with the National Marine and Fisheries Services Guidelines for Salmonid Passage at Stream Crossings for Federally listed salmonid species; and
  - b. The site is restored with appropriate native vegetation.
18. Allowed if necessary to bring the bridge or culvert up to current standards and if:
  - a. There is not another feasible alternative available with less impact on the stream and wetlands and their buffer; and
  - b. To the maximum extent practical, the bridge or culvert is located to minimize impacts to the stream and wetland and their buffers.

19. Limited to transmission pipelines, underground power lines, transmission powerlines, cables, wires, stormwater and support structures of utility facilities if:

- a. There is no other feasible alternative available with less impact on the critical area;
- b. The alterations will not subject the critical area to an increased risk of landslide or erosion;
- c. Significant risk of personal injury is eliminated or minimized in the landslide hazard area;
- d. Vegetation removal is the minimum necessary to locate the utility or construct the corridor;
- e. Any crossing over a stream or wetland shall be generally perpendicular to the critical area and shall be accomplished by bridging or other technique designed to minimize critical area disturbance. It shall also be the minimum width necessary to accommodate the intended function or objective;
- f. New utility corridors meet all of the following to the maximum extent practical:
  - i. Are not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the State or Federal government unless the Department determines that there is no other feasible crossing site;
  - ii. The mean annual flow rate is less than 20 cubic feet per second; and
  - iii. Paralleling the channel or following a down-valley route near the channel is avoided;
- g. To the maximum extent practical, utility corridors are located so that:
  - i. The width is minimized;
  - ii. The removal of trees shall be minimized to the extent feasible and is in accordance with Chapter 18.45 CMC; and
  - iii. An additional, contiguous and undisturbed critical area buffer, equal in area to the disturbed critical area buffer area including any allowed maintenance roads, is provided to protect the critical area;
- h. To the maximum extent practical, access for maintenance is at limited access points into the critical area buffer rather than by a parallel maintenance road. If a parallel maintenance road is necessary the following standards are met:
  - i. To the maximum extent practical the width of the maintenance road is minimized and in no event greater than 15 feet; and
  - ii. The location of the maintenance road is contiguous to the utility corridor on the side of the utility corridor farthest from the critical area;
- i. The utility corridor or utility facility will not change or diminish the overall critical area hydrology or flood storage capacity;
- j. The construction occurs during approved periods for in-stream work;
- k. The utility corridor serves multiple purposes and properties to the maximum extent practical;
- l. Bridges or other construction techniques that do not disturb the critical areas are used to the maximum extent practical;
- m. Bored crossing meets the following criteria:

- i. Are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood; and
    - ii. The channel is crossed close to perpendicular and never more than 30 degrees from perpendicular;
  - n. Open trenching is only used during low flow periods and only within streams when they are dry. The Department may approve open trenching of Type S or F streams only if there is not a feasible alternative and equivalent or greater environmental protection can be achieved; and
  - o. Minor communication facilities may collocate on existing utility facilities if: no new transmission support structure is required; and equipment cabinets are located on the transmission support structure.
20. Allowed for private individual utility service connections on site or to public utilities or utilities regulated by the Washington Utilities and Transportation Commission if the disturbed area is not expanded and no hazardous substances, pesticides or fertilizers are applied.
21. Allowed if the disturbed area is not expanded, clearing is limited to the maximum extent practical and no hazardous substances, pesticides or fertilizers are applied.
22. New surface water discharges in the form of dispersion trenches, outfalls and bioretention cells are allowed within the outer 25 percent of a wetland buffer; provided, that the discharge meets the requirements of the surface water management regulations in Chapter 13.25 CMC, if no other location is feasible and it will not degrade the functions or values of the wetland or stream. Where differences exist between these regulations and Chapter 13.25 CMC, these regulations will take precedence.
23. Applies to lawfully established existing structures if:
- a. Maintained by a public agency;
  - b. The height of the facility is not increased;
  - c. The linear length of the affected edge of the facility is not increased;
  - d. The footprint of the facility is not expanded waterward;
  - e. Consistent with King County's Guidelines for Bank Stabilization Projects (King County Surface Water Management) and bioengineering techniques are used to the maximum extent practical; and
  - f. The site is restored with appropriate native vegetation.
24. Allowed in Type S, F, Np and Ns streams if:
- a. Work is completed in the least impactful way during the least impactful time of year;
  - b. In conformance with applicable best management practices;
  - c. All affected in-stream and buffer features are restored;
  - d. Proposed in-stream work will restore or improve habitat; and
  - e. Work is compliant with other applicable State and Federal agencies and permitting requirements.
25. Nonmotorized publicly accessible trails are allowed with an approved critical area report. Trail planning, design, construction, and maintenance shall adhere to the following criteria:
- a. The trail shall be located and designed using best management practices in accordance with an approved critical area report and the following standards:

- i. Trail location and design shall result in the least impacts on the critical area or required buffers. Critical areas buffers shall be expanded, where possible, equal to the width of the trail corridor including disturbed areas;
    - ii. Trails should be generally located within the outer 25 percent of the standard critical area buffer when applicable;
    - iii. Trails located within a stream or wetland critical area shall be designed to limit minor crossings and having no adverse impact on water quality. The trail should be generally parallel to the perimeter of the wetland or stream. Trails should not be constructed of impervious surfaces that will contribute to surface water runoff, unless the construction is necessary for soil stabilization or soil erosion prevention or unless the trail system is specifically designed and intended to be accessible to handicapped persons. Except that publicly accessible nonmotorized trails connecting to the City's trail network may use impervious materials if they meet all other City requirements;
    - iv. Raised boardwalks utilizing nontreated pilings may be acceptable;
    - v. Trails shall be the minimum width necessary to accommodate the intended function or objective; however, in no event shall the trail be more than eight feet in width, except that publicly accessible nonmotorized trails may be made wider and use impervious materials if they meet all other requirements including water quality, as identified in Chapter 13.25 CMC, or the construction using impervious materials is necessary for soil stabilization or soil erosion prevention; and
    - vi. Trails shall avoid the removal of mature trees and limit disturbance of native understory vegetation;
  - b. Trails shall be designed and maintained using best management practices to complement and enhance the environmental, educational, and social functions and values of the critical area with trail design and construction focused on managing and controlling public access and limiting uncontrolled access;
  - c. When salmonids are present, the construction of the trail shall be in compliance with applicable State and Federal agencies and permitting requirements; and
  - d. The trail surface shall meet all other City standards and requirements, including water quality standards set forth in Chapter 13.25 CMC.
26. Only if the maintenance:
- a. Does not involve the use of herbicides or other hazardous substances except for the removal of noxious weeds or invasive vegetation;
  - b. When salmonids are present, the maintenance of the trail shall be in compliance with applicable State and Federal agencies and permitting requirements; and
  - c. Does not involve any expansion of the roadway, lawn, landscaping, ditch, culvert, engineered slope or other improved area being maintained.
27. Limited to:
- a. Projects sponsored by a public agency that has natural resource management as a primary function or by a Federally recognized tribe; or
  - b. Restoration and enhancement plans prepared by a qualified biologist or a landscape architect in conformance with Chapter 18.96 RCW and subject to City review and approval.
28. Allowed in accordance with a scientific sampling permit issued by Washington State Department of Fish and Wildlife or an incidental take permit issued under Section 10 of the Endangered Species Act.

29. Limited to the transmission pipelines, cables, wires and support structures of utility facilities within utility corridors if:

- a. There is not another feasible location with less adverse impact on the critical area and its buffer, consistent with CMC 18.65.120;
- b. New utility corridors meet all of the following to the maximum extent practical:
  - i. Are not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the State or Federal government unless the Department determines that there is no other feasible crossing site;
  - ii. The mean annual flow rate is less than 20 cubic feet per second; and
  - iii. Paralleling the channel or following a down-valley route near the channel is avoided;
- c. To the maximum extent practical, utility corridors are located so that:
  - i. The width is minimized;
  - ii. The removal of trees shall be minimized and in accordance with Chapter 18.45 CMC;
  - iii. An additional, contiguous and undisturbed critical area buffer, equal in area to the disturbed critical area buffer area including any allowed maintenance roads, is provided to protect the critical area; and
  - iv. Mitigation and monitoring shall be in accordance with CMC 18.65.130;
- d. To the maximum extent practical, access for maintenance is at limited access points into the critical area buffer rather than by a parallel maintenance road. If a parallel maintenance road is necessary the following standards are met:
  - i. To the maximum extent practical the width of the maintenance road is minimized and in no event greater than 15 feet; and
  - ii. The location of the maintenance road is contiguous to the utility corridor on the side of the utility corridor farthest from the critical area;
- e. The utility corridor or utility facility will not change or diminish the overall critical area hydrology or flood storage capacity;
- f. The construction occurs during approved periods for in-stream work;
- g. The utility corridor serves multiple purposes and properties to the maximum extent practical;
- h. Bridges or other construction techniques that do not disturb the critical areas are used to the maximum extent practical;
- i. Bored crossings meet the following criteria:
  - i. Are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood; and
  - ii. The channel is crossed close to perpendicular and never more than 30 degrees from perpendicular;
- j. Bridge piers or abutments for bridge crossings are not placed within the FEMA floodway or the ordinary high water line;

k. Open trenching is only used during low flow periods and only within aquatic areas when they are dry. The Department may approve open trenching of Type S or F aquatic areas only if there is not a feasible alternative and equivalent or greater environmental protection can be achieved; and

l. Minor communication facilities may collocate on existing utility facilities if: no new transmission support structure is required; and equipment cabinets are located on the transmission support structure.

30. Permitted if:

a. There is not another feasible location with less adverse impact on the critical area and its buffer, consistent with CMC 18.65.120; and

b. Consistent with public utility connection requirements in CMC Titles 13 and 17. (Ord. 06-17 § 4 (Exh. B))

**18.65.060 Agricultural and keeping of livestock activities development standards.**

(1) Agricultural activities are allowed to continue within identified critical areas if the agricultural activity and the alteration is in compliance with an approved farm conservation plan in accordance with this chapter and Chapter 18.80 CMC.

(2) This section does not waive the requirement that the property owner obtain permits for activities covered by an approved farm conservation plan.

(3) A farm conservation plan prepared and approved by the King Conservation District shall be submitted to the City for any livestock facilities, structures housing fowl, confinement areas, grazing areas, and construction of any access drive to service the keeping of livestock or agriculture activities located on properties with critical areas and critical area buffers. The farm conservation plan shall include the following information, but not limited to:

(a) A site inventory identifying critical areas, structures, cleared and forested areas, and other significant features on the site;

(b) Site-specific performance standards and best management practices to protect and enhance critical areas and their buffers and maintain and enhance native vegetation on the site including the best management practices for the installation and maintenance of farm field access drives and agricultural drainages;

(c) A plan for future changes to any existing structures or for any changes to the landscape that involve clearing or grading;

(d) A plan for implementation of performance standards and best management practices;

(e) A plan for monitoring the effectiveness of measures taken to protect critical areas and their buffers and to modify the farm conservation plan if adverse impacts occur; and

(f) Documentation of compliance with flood compensatory storage and flood conveyance in accordance with Chapter 16.15 CMC.

(4) The farm conservation plan shall address the following goals, which are listed in order of priority:

(a) To maintain the productive agricultural land base and economic viability of agriculture on the site;

(b) To restore and enhance critical areas to the maximum extent practical in accordance with the site-specific goals of the landowner;

(c) To the maximum extent practical in accordance with the site-specific goals of the landowner, maintain and enhance natural hydrologic systems on the site;

(d) To use Federal, State and local best management practices and best available science to achieve the goals of the farm conservation plan; and



(e) To monitor the effectiveness of best management practices and implement additional practices through adaptive management to achieve the goals of the farm conservation plan.

(5) Any in-water or wetland impacts will need to be reviewed and approved by State and Federal agencies.

(6) Prior to approving a farm conservation plan, the City shall conduct a site inspection, to verify that the conditions identified in the plan are in place and that the plan is reasonably likely to accomplish the goals outlined in this section. (Ord. 06-17 § 4 (Exh. B))

**18.65.062 Shoreline variance required.**

Any alteration of critical areas, critical area setbacks, critical area buffers, or other specific bulk, dimensional, or performance standards located within the shoreline jurisdiction as set forth in the [SMP Appendix A \(Ord. No. 05-11 Chapter 18.65 CMC\)](#), other than those allowed explicitly in [the SMP standards Chapter 16.05 CMC](#), shall require a shoreline variance based on the variance criteria listed in [Chapter 6 of the SMP CMC 16.05.090](#) and WAC 173-27-170. (Ord. 06-17 § 4 (Exh. B))

**18.65.070 Public agency/utility exceptions.**

This section applies only to critical areas outside of the shoreline jurisdiction and is not applicable to critical areas within a shoreline jurisdiction. The City's approved SMP governs the permitted alterations within a shoreline jurisdiction.

Unless otherwise specified as an alteration in CMC 18.65.050, the public agency/utility exception is a mechanism by which the City may approve limited use and disturbance of a critical area and critical area buffer when no other use of the property constitutes a reasonable alternative.

(1) If the application of this chapter prohibits a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this subsection along with the required fees as set forth in CMC 18.65.046. An exception shall not be granted for properties wholly or partially located within a shoreline of the State as regulated in Chapter 16.05 CMC or floodplain as regulated in Chapter 16.15 CMC.

(a) The agency or utility shall apply to the Department and provide related project documents such as permit approvals from other agencies, special studies, and SEPA documents. The Department shall prepare a recommendation to the Director for review and approval subject to the following criteria:

- (i) There is no other practical alternative to the proposed development with less impact on the critical area;
- (ii) The proposal minimizes the impact on critical areas and buffers, including modifying the noncritical area setbacks to the maximum extent allowed in this chapter;
- (iii) Associated development, including access driveways, and utility infrastructure, shall be located outside of the critical area or critical area buffer to the maximum extent technically feasible;
- (iv) Areas of disturbance for associated development, including access and utility infrastructure, shall be consolidated to the maximum extent technically feasible;
- (v) All areas of temporary disturbance associated with utility installation, construction staging, and other development shall be determined by the Director and delineated in the field prior to construction and temporary disturbance shall be restored consistent with a restoration plan approved by the City;
- (vi) Areas of permanent disturbance shall be mitigated to the maximum extent feasible on site pursuant to a mitigation plan meeting the requirements of this chapter; and
- (vii) Fencing, signage, and/or additional buffer planting should be incorporated into the site development in order to prevent long-term disturbance within the critical area or buffer. (Ord. 06-17 § 4 (Exh. B))

**18.65.075 Reasonable use exception.**

(1) If the application of this chapter would deny all reasonable use of the property, the applicant may apply for an exception pursuant to this section upon payment of the fee as set forth in CMC 18.65.046. The exception shall not be granted for properties wholly or partially located within a shoreline of the State as regulated in Covington's SMP as regulated in Chapter 16.05 CMC or floodplain as regulated in Chapter 16.15 CMC.

(2) Reasonable use exceptions do not apply in the City's shoreline jurisdictions. Exceptions within the City's shoreline jurisdictions are processed as a shoreline permit or variance pursuant to CMC ~~18.65.062~~ 16.05.090.

(3) A reasonable use exception is a Type 3 permit process. The Director shall prepare a staff report to the Hearing Examiner for a decision.

(4) A reasonable use exception request shall be on a form as determined by the City and shall include a critical area report in accordance with CMC 18.65.110. The critical area report shall address the following additional criteria:

(a) An analysis of whether any other reasonable use with less impact on the critical area and critical area buffer is possible;

(b) Site design and construction staging of the proposal shall have the least impact to the critical area and critical area buffer;

(c) The footprint of all proposed structures and improvements including;

(i) Buildings;

(ii) Garages and parking areas;

(iii) Driveways;

(iv) Paved surfaces, such as walking paths;

(v) Patios, decks, and similar structures;

(vi) Location of utility and storm water improvements and easements;

(vii) Yard landscaping; and

(viii) Retaining walls and rockeries;

(d) A description of protective measures that will be undertaken to avoid interference with wildlife and fisheries rearing, nesting, or spawning activities;

(e) An analysis of the impact that the proposed development would have on the critical area and the critical area buffer;

(f) How the proposal mitigates for impacts to the critical areas and buffers;

(g) How the proposal minimizes to the greatest extent possible net loss of critical area functions;

(h) Whether the improvement is located away from the critical area and the critical area buffer to the greatest extent possible; and

(i) City may request additional information or studies necessary to make a recommendation.

(5) The Hearing Examiner shall review the application and staff report and hold a public hearing pursuant to Chapter 2.25 CMC and CMC Title 14. The Hearing Examiner shall base the decision on the following criteria:

(a) The application of this chapter would deny all reasonable use of the property; and

- (b) There is no other feasible or reasonable use or on-site alternatives with less impact on the critical area, such as changes to site layout and/or reduction of impervious improvements; and
  - (c) It is solely the implementation of this chapter, and not other factors, that precludes all reasonable use of the subject property; and
  - (d) The applicant has in no way created or exacerbated the condition that forms the limitation on the use of the subject property, nor in any way contributed to such limitation; and
  - (e) The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest; and
  - (f) Any alterations permitted to the critical area shall be the minimum necessary to allow for reasonable use of the property; and
  - (g) The granting of the exception will not grant the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures under similar circumstances.
- (6) If the City grants a request under this section, it shall grant the minimum necessary to provide the applicant with some reasonable use of the subject property, considering the factors described in subsections (5)(a) through (g) of this section. Any approval or waiver of requirements shall result in the minimum possible impacts to the function and values and/or risks associated with proposed improvements on affected critical areas. The City may impose limitations, mitigation under an approved mitigation plan, conditions and/or restrictions it considers appropriate to reduce or eliminate any undesirable effects or adverse impacts of granting a request under this section.
- (7) The reasonable use exception approval expires and is void if the applicant fails to file a complete building permit application within five years of the final decision granting or approving the exception.
- (8) The City may approve a subsequent modification to a specific use and site plan that has been approved through the reasonable use exception, provided the change meets the standards of this chapter. Otherwise, the applicant is required to apply for and obtain approval through a Type 2 land use process pursuant to Chapter 14.35 CMC for a new reasonable use exception. (Ord. 06-17 § 4 (Exh. B))

**18.65.090 Disclosure by applicant.**

If a development proposal site contains or is within a critical area, the applicant shall submit an affidavit that declares whether the applicant has knowledge of any illegal alteration to any or all critical areas on the development proposal site and whether the applicant previously has been found in violation of this chapter, pursuant to Chapter 1.30 CMC. If the applicant previously has been found in violation, the applicant shall declare whether the violation has been corrected to the satisfaction of the City of Covington. (Ord. 06-17 § 4 (Exh. B))

**18.65.100 Critical area review.**

(1) The applicant shall submit a critical area report consistent with CMC 18.65.110. The Department shall review for any development proposal application, permit or other request to alter a site which includes a critical area or is within a critical area buffer. The applicant shall pay a critical area review fee as set forth in CMC 18.65.046.

(2) As part of the critical area review, the City shall determine whether:

- (a) A critical area exists on the property and confirm the nature and type, and applicable buffer;
- (b) An alteration will occur to a critical area or a critical area buffer;
- (c) A critical area report is required, and if so, evaluate the critical area report to ensure:
  - (i) The development proposal is consistent with this chapter;

(ii) The sequence outlined in CMC 18.65.120 has been followed to avoid impacts to critical areas and critical area buffers; and

(iii) Mitigation to compensate for adverse impacts to critical areas is required, enhancements to degraded critical areas (including buffers) and whether the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the general public health, safety, and welfare, consistent with the goals, purposes, objectives, and requirements of this chapter. (Ord. 06-17 § 4 (Exh. B))

**18.65.110 Critical area report requirement.**

(1) Unless waived or modified by the Director, an applicant proposing activities which include impacts or alteration of a critical area or its associated buffer shall submit a critical areas report that adequately evaluates the proposal and probable impacts, and proposed mitigation.

(2) The critical area report shall be prepared by a qualified professional, incorporate best available science, and include, at the minimum, the following items:

- (a) The name and contact information of the applicant, the name and a description of the proposal;
- (b) Vicinity map;
- (c) The dates, names, and qualifications of the persons preparing the report;
- (d) A scaled site plan depicting critical areas, buffers, setbacks, and proposed improvements;
- (e) Photographs of the site and critical areas;
- (f) Identification and classification of all critical areas and critical area buffers on the site;
- (g) Identification and characterization of all critical areas on those properties immediately adjacent to the proposed improvements;
- (h) Identification of each regulation or standard of this chapter proposed to be modified;
- (i) A habitat assessment consistent with the requirements of CMC 18.65.350;
- (j) A comparison of the level of protection of critical area functions and values provided by the regulations or standards of this chapter, compared with the level of protection provided by the proposal. The analysis shall include:
  - (i) A discussion of the functions and values currently provided by the critical area and critical area buffer on the site and their relative importance to the ecosystem in which they exist;
  - (ii) A discussion of the functions and values likely to be provided by the critical area and critical area buffer on the site as a result of the proposal over the anticipated life of the proposed development;
- (k) A description of the proposed impacts to critical areas and/or their associated buffers;
- (l) A description of efforts made to apply mitigation sequencing pursuant to CMC 18.65.120 to avoid, minimize, and mitigate impacts to critical areas;
- (m) A discussion of the mitigation requirements applicable to the proposal pursuant to this chapter and a recommendation for additional or modified mitigation or enhancement, if any;
- (n) Additional information required for the individual critical area;
- (o) Any additional information determined by the Director to adequately review the proposed activity; and

(p) A detailed mitigation plan, including required elements in CMC 18.65.130, may be requested by the Director.

(3) Critical area reports may be reviewed by the City's third party consultant at the applicant's expense, at the City's discretion. (Ord. 06-17 § 4 (Exh. B))

**18.65.120 Sequential steps for mitigation, including avoiding impacts.**

(1) An applicant for a development proposal or alteration shall sequentially adhere to the following measures, which appear in order of priority, to avoid and provide compensation for impacts to critical areas and critical area buffers:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (b) Minimizing the impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation or timing, to avoid or reduce impacts;
- (c) Rectifying the impact to critical areas by repairing, rehabilitating or restoring the affected critical area and/or its buffer;
- (d) Minimizing or eliminating a hazard by restoring or stabilizing the critical area through engineered or other methods;
- (e) Reducing or eliminating the impact over time by preservation and/or maintenance operations during the life of the development proposal;
- (f) Compensating for the adverse impact by enhancing critical areas and their buffers or creating replacement critical areas and their buffers; and
- (g) Monitoring the hazard and/or success of required mitigation and taking remedial action as necessary.

(2) The specific mitigation requirements of this chapter for each critical area apply when compensation for adverse impacts is required by the sequence in subsection (1) of this section. (Ord. 06-17 § 4 (Exh. B))

**18.65.130 Mitigation and monitoring.**

(1) If mitigation is allowed under this chapter to compensate for adverse impact and alterations to the critical area and associated buffer, unless otherwise provided, an applicant shall:

- (a) Mitigate adverse impacts to critical areas and their buffers;
- (b) Provide enhancements to degraded critical areas and their buffers;
- (c) Monitor the performance of any required mitigation and enhancements; and
- (d) Take remedial action, as necessary.

(2) The Department shall not approve a development proposal until mitigation and monitoring plans have been reviewed and approved to mitigate for alterations to critical areas and buffers.

(3) Whenever mitigation is required, an applicant shall submit a mitigation plan that includes:

- (a) Existing Conditions and Proposed Impacts. A description of existing critical areas and/or buffer conditions, functions and values and a description of the anticipated impacts;
- (b) Proposed Mitigation. A description of the proposed mitigation for each impacted critical area including at a minimum type, site selection criteria, method of construction, conceptual design, and landscape plans;

(c) Environmental Goals and Objectives. A description of the goals and objectives of proposed mitigation. The goals and objectives shall be related to the function and values of the impacted critical area and provide an analysis of the likelihood of success of the compensation project;

(d) Best Available Science. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed;

(e) Performance Standards. A description of specific measurable criteria for evaluating whether the goals and objectives of the mitigation project have been successfully attained and whether the requirements of this chapter have been met;

(f) Timing. Mitigation shall be completed concurrently with project construction, unless a phased schedule that assures completion has been approved by the Director;

(g) Detailed Construction Plans. Detailed site diagrams, scaled cross-sectional drawings, topographic maps with slope percentage and final grade elevations, and any other drawing appropriate to show construction techniques or anticipated final outcome. The plans shall include specifications and descriptions of the following:

(i) Proposed construction sequence, timing, and duration;

(ii) Grading and excavation details;

(iii) Erosion and sediment control features;

(iv) Planting plan specifying plant species, quantities, locations, size, spacing, and density; and

(v) Measures to protect and maintain plants until established;

(h) Monitoring Plan. A monitoring plan that includes:

(i) A demonstration of compliance with this chapter; and

(ii) Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A record drawing of the completed mitigation will be submitted to the City upon completion. A protocol shall also be included outlining the schedule for annual site monitoring and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted annually to document milestones, success, problems, and contingency actions of the compensation project. The monitoring period shall be not less than five years;

(i) Contingency Plan. A contingency plan in the event of a failure of mitigation or of unforeseen impacts if:

(i) The Department determines that failure of the mitigation would result in a significant impact on the critical area or buffer; or

(ii) The mitigation involves the creation of a wetland; and

(iii) A monitoring schedule that may extend throughout the impact of the activity or for hazard areas, for as long as the hazard exists;

(j) Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented, in accordance with CMC 18.65.140.

(4) Mitigation shall not be implemented until after the City approves the mitigation and monitoring plan. The applicant shall notify the City when mitigation is installed and monitoring is commenced and shall provide City with reasonable access to the mitigation for the purpose of inspection during any monitoring period.

(5) If monitoring reveals a significant deviation from predicted impact or a failure of mitigation, the applicant shall implement an approved contingency plan. The contingency plan constitutes new mitigation and is subject to all mitigation including a monitoring plan and financial guarantee requirements. (Ord. 06-17 § 4 (Exh. B))

**18.65.135 Off-site mitigation.**

(1) To the maximum extent practical, an applicant shall mitigate adverse impacts to a wetland, stream, wildlife habitat conservation area or wildlife habitat network on or contiguous to the development site. The Director may approve mitigation that is off the development site, at the Director's sole discretion, if an applicant demonstrates that:

- (a) It is not practical to mitigate on or contiguous to the development proposal site; and
- (b) The off-site mitigation will achieve equivalent or greater hydrological, water quality and wetland or stream habitat functions.

(2) When off-site mitigation is authorized, the Director shall give priority to locations identified through a watershed assessment, preferably within the same drainage sub-basin as the development proposal site, that meet the following:

- (a) ~~Approved-Certified~~ mitigation banks whose service areas include the City of Covington;
- (b) King County mitigation reserves in-lieu-fee program mitigation sites; or
- (c) Other public or nonprofit mitigation sites approved by the Interagency Review Team (IRT) as part of an in-lieu fee program that have been ranked in a process that has been supported by ecological assessments, including wetland and streams established as priorities for mitigation in City of Covington sub-basin plans or other WRIA No. 9 watershed plans.

(3) The Director may require documentation that the mitigation site has been permanently preserved from future development or alteration that would be inconsistent with the function of the mitigation. The documentation may include, but need not be limited to, a conservation easement or other agreement between the applicant and owner of the mitigation site. The City of Covington may enter into agreements or become a party to any easement or other agreement necessary to ensure that the site continues to exist in its mitigated condition.

(4) The City of Covington may develop a program to allow the payment of a fee in lieu of providing mitigation on a development site. Once approved by the IRT, the program should address:

- (a) When the payment of a fee is allowed considering the availability of a site in geographic proximity with comparable hydrologic and biological functions and potential for future habitat fragmentation and degradation; and
- (b) The use of the fees for mitigation on public or private sites that have been ranked according to ecological criteria. (Ord. 06-17 § 4 (Exh. B))

**18.65.140 Financial guarantees.**

Financial guarantees shall be required consistent with the provisions of Chapter 14.105 CMC and this chapter.

(1) Financial guarantees for mitigation required pursuant to this chapter shall be sufficient to guarantee that all required mitigation measures will be completed no later than the time established by the City.

(2) Financial guarantees shall also be required for restoration of a critical area or buffer not performed as part of a mitigation or maintenance plan except that no financial guarantee shall be required for minor stream restoration.

(3) If the development proposal is subject to mitigation, maintenance, or monitoring plans, the applicant shall post a financial guarantee in the amount deemed acceptable by the City. The financial guarantee shall be sufficient to guarantee satisfactory workmanship on, materials in and performance of or related to structures and improvements allowed or required by this chapter for a period of five years. The duration of maintenance/monitoring obligations

shall be established by the City, based upon the nature of the proposed mitigation, maintenance, or monitoring and the likelihood and expense of correcting mitigation or maintenance failures.

(4) When mitigation is required pursuant to a development proposal and is not completed prior to the City finally approving the proposal, the City may delay final approval until mitigation is completed or may require the applicant to post a financial guarantee in an amount deemed acceptable to the City. The financial guarantee shall be sufficient to guarantee that all required mitigation measures will be completed no later than the time established by the City in accordance with this chapter.

(5) For financial guarantees associated with mitigation, corrective work, restoration, or enhancement, the financial guarantee shall be sufficient to cover the time and cost to guarantee satisfactory workmanship, materials and performance of structures and improvements required by this chapter and any monitoring of those structures and improvements required by approved plans and conditions.

(6) Depletion, failure or collection of the financial guarantee shall not relieve an applicant or violator from completing the required mitigation, maintenance, monitoring, or restoration as required under this chapter.

(7) Public development proposals shall be relieved from having to comply with the provisions of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration. (Ord. 06-17 § 4 (Exh. B))

**18.65.160 Critical area markers, signs, fencing and installation.**

(1) Markers. Development proposals shall include permanent survey stakes delineating the boundary between adjoining property and critical area tracts, using markers capable of being magnetically located and as established by current survey standards.

(2) Signs. The applicant shall identify the boundary between a critical area tract and contiguous land with permanent signs. Permanent signs shall be City-approved type designed for high durability.

(a) Signs must be posted at an interval of one per lot or every 100 feet, whichever is less, and must be maintained by the property owner or homeowner's association in perpetuity.

(b) City of Covington may require signs and fences to delineate and protect critical areas and critical area buffers that are not in critical area tracts.

(c) The applicant is responsible for obtaining the signs at their sole expense.

(d) The wording, number and placement of the signs may be modified by the Director based on specific site conditions.

(3) Fencing. Permanent fencing shall be required at the outer edge of the critical area buffer under the following circumstances:

(a) As part of any development proposal for:

(i) Plats;

(ii) Short plats;

(iii) Parks;

(iv) Other development proposals, including but not limited to multifamily, mixed use, and commercial development where the Director determines that such fencing is necessary to protect the functions of the critical area;

(b) When buffer reductions are employed as part of a development proposal;

(c) When buffer averaging is employed as part of a development proposal; and



(d) At the Director's discretion to protect the values and functions of a critical area. (Ord. 06-17 § 4 (Exh. B))

**18.65.170 Recording notice on title of critical areas.**

(1) The owner of any property containing critical areas or buffers on which a development proposal is submitted or any property on which mitigation is established as a result of a development proposal, except a public right-of-way or the site of a permanent public facility, shall file a notice approved by the Director with the King County Division of Records and Elections. The property owner receiving approval of a use or development with critical areas pursuant to this chapter shall record a site plan or other instrument clearly delineating the critical area, critical area buffer, and critical area structure setback with the King County Division of Records and Elections. The site plans must include a statement that the provisions of this chapter as now, or hereafter amended, control the use and development of the subject property.

The notice shall inform the public of the presence of critical areas or buffers or mitigation sites on the property, the application of this chapter to the property and the possible existence of limitations on actions in or affecting the critical areas or buffers or the fact that mitigation sites may exist.

(2) The applicant shall submit proof that the notice on title has been filed for public record before City of Covington approves any development proposal for the property or, in the case of subdivisions, short subdivisions, commercial site development and binding site plans, at or before recording of the subdivision, short subdivision, commercial site development or binding site plan. (Ord. 06-17 § 4 (Exh. B))

**18.65.180 Critical area tracts and designations on site plans.**

(1) The applicant shall use critical area tracts to delineate and protect those critical areas and buffers listed below in development proposals and shall record on all documents of title of record for all affected lots:

- (a) All landslide hazard areas and buffers;
- (b) All steep slope hazard areas and buffers;
- (c) All wetlands and buffers; and
- (d) All fish and wildlife habitat conservation areas and buffers.

(2) Critical area tracts shall be designated on the plat. A plat note shall include the following restriction:

Critical area tracts shall be preserved for the purpose of preventing harm to property and the environment, including but not limited to controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants, fish, and animal habitat. Removal or disturbance of vegetation and landscaping within the tract is prohibited, except as necessary for maintenance or replacement with approval by the City of Covington.

(3) The City may require that any required critical area tract be dedicated to the City, be held in an undivided interest by each owner of a building lot within the development with this ownership interest passing with the ownership of the lot, or be held by an incorporated homeowners' association or other legal entity that ensures the ownership, maintenance, and protection of the tract.

(4) Site plans submitted as part of building permits, clearing and grading permits, or other development permits shall include all critical areas, buffers, and building setbacks and delineate all flood hazard areas as determined by the City in accordance with CMC 18.65.230, landslide and steep slope hazard areas in accordance with CMC 18.65.250 through 18.65.300, fish and wildlife habitat conservation areas in accordance with CMC 18.65.350 through 18.65.440, and wetlands in accordance with CMC 18.65.318 through 18.65.340. If only a part of the development site has been mapped pursuant to CMC 18.65.110, the part of the site that has not been mapped shall be clearly identified and labeled on the site plans. Site plans shall be attached to the notice on title required by CMC 18.65.170. (Ord. 06-17 § 4 (Exh. B))

**18.65.200 Building setbacks from critical area buffer.**

Buildings and other structures shall be set back a distance of 15 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. Except the following is allowed in this building setback:

- (1) Landscaping;
- (2) Uncovered decks lower than 30 inches in height above existing grade;
- (3) Building overhangs if the overhangs do not extend more than 18 inches into the setback area;
- (4) Impervious surface areas, such as driveways and patios; but these improvements are required to meet any special drainage provisions specified in public rules adopted for the various critical areas; and
- (5) Utility service connections as long as the excavation for installation avoids impacts to the buffer. (Ord. 06-17 § 4 (Exh. B))

**Article II. Frequently Flooded Areas**

**18.65.230 Frequently flooded areas.**

Frequently flooded areas are defined as a critical area under RCW 36.70A.030. Criteria for identification and classification of frequently flooded areas and for protection standards for frequently flooded areas are included under Chapter 16.15 CMC. (Ord. 06-17 § 4 (Exh. B))

**Article III. Geologically Hazardous Areas**

**18.65.250 Applicability and designation – Geologically hazardous areas.**

- (1) This article regulates development activities on or within 50 feet of a geologically hazardous area.
- (2) Geologically hazardous areas include areas susceptible to erosion, landsliding, seismic, or other geological events. ~~Areas susceptible to one or more of the following types of hazards shall be designated as geologically hazardous areas:~~ The following areas are designated as geologically hazardous areas:

(a) Erosion hazard areas, defined as those areas underlain by soils that are subject to severe erosion when disturbed, including areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. The soils subject to severe erosion include, but are not limited to, those classified as having a severe to very severe erosion hazard according to the United States Department of Agriculture Soil Conservation Service, the 1973 King County Soils Survey, or any subsequent revisions or addition by or to these sources such as any occurrence of river wash (“Rh”) and any of the following when the soils occur on slopes inclined at 15 percent or more:

- (i) The Alderwood gravelly sandy loam (“AgD”);
- (ii) The Alderwood and Kitsap soils (“AkF”);
- (iii) The Beausite gravelly sandy loam (“BeD” and “BeF”);
- (iv) The Kitsap silt loam (“KpD”);
- (v) The Ovall gravelly loam (“OvD” and “OvF”);
- (vi) The Ragnar fine sandy loam (“RaD”); and
- (vii) The Ragnar-Indianola Association (“RdE”);

(b) Landslide hazard areas, defined as those areas subject to severe risk of landslide, based on a combination of geologic, topographic, and hydrologic factors. They include any areas susceptible to landslide because of any

combination of bedrock, soil, slope (gradient), slope aspect, structure hydrology, or other factors, and include, at a minimum, the following:

(i) An area with a combination of:

(A) Slopes steeper than 15 percent of inclination;

(B) Impermeable soils, such as silt and clay, interbedded with granular soils, such as sand and gravel; and

(C) Springs or seasonal ground water seepage;

(ii) Areas of historic failures such as:

(A) An area that has shown movement during the Holocene epoch, which is from 10,000 years ago to the present, or that is underlain by mass wastage debris from that epoch;

(B) Those areas delineated by the United States Department of Agricultural Natural Resources Conservation Service as having a significant limitation for building site development;

(C) Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the United States Geological Survey or Washington Department of Natural Resources;

(iii) An area potentially unstable as a result of rapid stream incision, stream bank erosion or undercutting by wave action including stream channel migration zones;

(iv) An area that shows evidence of or is at risk from snow avalanches;

(v) An area located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows, or catastrophic flooding, or deposition of stream-transported sediments;

(vi) Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of bedrock;

(vii) Slopes having gradients steeper than 80 percent subject to rockfall during seismic shaking; and

(viii) Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.;

(c) Steep slope hazard areas, defined as those areas on a slope of 40 percent inclination or more within a vertical elevation change of at least 20 feet. For the purpose of this definition, a slope is delineated by establishing its toe and top, as defined in CMC 18.20.1230, and is measured by averaging the inclination over at least 10 feet of vertical relief; and

(d) Seismic hazard areas, defined as those areas in the City of Covington subject to severe risk of earthquake damage as a result of ground movement, ground displacement, or soil liquefaction in areas underlain by cohesionless soils of low density and usually in association with a shallow ground water table or other seismically induced settlement.

(3) Alterations within geological hazard areas are allowed pursuant to CMC 18.65.050.

(4) The critical area report shall include a geotechnical evaluation prepared by a geotechnical engineer or engineering geologist licensed in the State of Washington.

(5) The Director may approve a permit for development activities within 50 feet, but not less than 15 feet, of a steep slope area or a landslide hazard area, based on the findings of critical area report that the development will not be at risk of damage due to the geologic hazard and will not lead to nor create any increased slide, seismic or erosion hazard.

(6) Allowed alteration within a steep slope, erosion, or landslide hazard area shall minimize alterations to the natural contour of the slope and foundations shall be tiered where possible to conform to existing topography in accordance with Chapter 14.60 CMC. Freestanding retaining devices are only permitted when they cannot be designed as structural elements of the building foundation. Structures and improvement shall be located to preserve the most critical portions of the site and its natural landforms and vegetation. (Ord. 06-17 § 4 (Exh. B))

**18.65.260 Erosion hazard areas – Development standards and permitted alterations.**

Development proposals and other alterations to sites containing erosion hazard areas shall be allowed, pursuant to applicable permits and approvals, only if they or any other alteration complies with applicable requirements as set forth in this chapter, including but not limited to mitigation requirements and the following standards:

(1) Clearing on an erosion hazard area is allowed only from April 1st to September 1st, unless otherwise determined by the Director and based on an approved erosion and sediment control plan. Timber harvesting may be allowed pursuant to an approved forest practice permit issued by the Washington Department of Natural Resources or pursuant to an approved tree removal permit as required by Chapter 18.45 CMC.

(2) All development proposals, including but not limited to subdivisions, short subdivisions, or commercial site development or binding site plans, shall retain existing vegetation on all lots, in accordance with Chapter 14.60 CMC, until the City has approved engineering plans and issued the development proposal construction permits.

(3) Limited clearing of vegetation on lots may only be allowed for the installation of erosion and sediment control in accordance with a submitted grading permit or engineering plans. (Ord. 06-17 § 4 (Exh. B))

**18.65.270 Erosion and seismic hazard areas – Protection measures and specific mitigation.**

(1) All proposed improvements within an erosion hazard area or seismic hazard area shall follow the recommendations within the critical area report, and supplemental geotechnical evaluation required in CMC 18.65.250(4), to ensure the improvements will not adversely affect geologic hazards and the improvements are at minimal risk by the geologic hazard as designed under anticipated conditions.

(2) For any development proposal on a site containing an erosion hazard or seismic hazard area, an erosion and sediment control plan shall be required and included as part of the mitigation plan. The erosion and sediment control plan shall be prepared in compliance with the adopted City standards and stormwater manual.

(3) Proposed improvements within an erosion hazard area shall also demonstrate all the following via the critical area report:

(a) The improvement will not increase surface water discharge or sedimentation to adjacent properties and/or stormwater systems beyond predevelopment conditions;

(b) The improvement will not decrease slope stability on adjacent properties; and

(c) The improvement will not adversely impact other critical areas.

(4) If vegetation is removed beyond the scope of the approved clearing and grading permit and erosion and sediment control plan associated with the construction of development infrastructure, the City may stop work and the applicant shall be required to submit a restoration plan to the City for review and approval prior to further construction activity allowed on site. Following approval, the applicant shall be required to implement the plan. The City may require a financial guarantee to ensure implementation of the restoration plan.

(5) Where the City determines that erosion from a development site poses a significant risk of damage to downstream receiving waters, based either on the size of the project, the proximity to the receiving water or the sensitivity of the receiving water, the applicant shall be required to provide continuous monitoring of surface water discharge, turbidity, and suspended sediment concentrations from the site. If the project does not meet water quality standards established by law or administrative rules, the City may suspend further development work on the site until such standards can be met.

(6) Unless otherwise provided in CMC 18.65.050 or part of an allowed exemption, the use of hazardous substances, pesticides and fertilizers in erosion hazard areas may be prohibited by the City. (Ord. 06-17 § 4 (Exh. B))

**18.65.280 Landslide hazard areas – Development standards and alterations.**

The following standards apply to development proposals and alterations on sites containing landslide hazard areas:

(1) Only the alterations identified in CMC 18.65.050 are allowed within a landslide hazard area with a slope of 40 percent or greater;

(2) The critical area report shall include an engineer's evaluation prepared by an engineer or geologist licensed in the State of Washington;

(3) A buffer is required from all edges of the landslide hazard area. The width of the buffer is based upon a critical area report that shall reflect the sensitivity of the landslide hazard area in question and the types and density of uses proposed on or adjacent to the geologic hazard. The Director may allow buffers to be reduced, no less than 15 feet, if the supplemental engineer evaluation identifies that the reduction will adequately protect the proposed and surrounding development from the critical landslide hazard. To eliminate or minimize the risk of property damage or injury resulting from landslides caused in whole or part by the development, the Director shall determine the size of the buffer based upon the findings and recommendations of a critical area report and supplemental engineer evaluation required in subsection (2) of this section. If a critical area report is not submitted to the City, the minimum buffer shall be 50 feet. If the landslide hazard area has a vertical rise of more than 200 feet, the Department may increase the minimum buffer to 100 feet;

(4) Unless otherwise provided in CMC 18.65.050 or part of an allowed exemption, removal of any vegetation from a landslide hazard area or buffer is prohibited. The buffer shall be extended beyond these limits if they are deemed necessary to mitigate steep slope and erosion hazards, or as otherwise necessary to protect the public health, welfare or safety;

(5) All alterations shall minimize disturbance to the landslide hazard area, slope, and vegetation unless necessary for slope stabilization; and

(6) Alterations in a landslide hazard area located on a slope less than 40 percent are allowed if:

(a) The proposed alteration will not decrease slope stability on contiguous properties; and

(b) The risk of property damage or injury resulting from landsliding is eliminated or minimized; based on criteria including altering of drainage patterns and subsurface flow, and the development proposal on that site is certified as safe by a licensed engineering geologist or geotechnical engineer. (Ord. 06-17 § 4 (Exh. B))

**18.65.290 Steep slope hazard areas – Development standards and alterations.**

Steep slope hazard areas and associated buffers shall not be altered except as expressly authorized below. The following standards apply to development proposals and alterations on sites containing steep slope hazard areas:

(1) Only the alterations identified in CMC 18.65.050 are allowed within a steep slope hazard area;

(2) A buffer or setback of 50 feet is required from all edges of the steep slope hazard area. To eliminate or minimize the risk of property damage or injury resulting from slope instability, landsliding, or erosion caused in whole or part by the development, the City shall determine the size of the buffer or setback, which may increase or decrease the buffer, based upon a critical area report prepared by a geotechnical engineer or geologist. If a critical area report is not submitted to the City, the minimum buffer is 50 feet. In no case shall the buffer be less than 15 feet, and the buffer may only be reduced pursuant to the findings of the critical area report that demonstrates that the reduction will not reduce the level of protection to the proposed development and the critical area as provided by the 50-foot buffer. An occupied building shall not be closer than 25 feet (including buffer from the top or the toe of a steep slope (or altered steep slope)); and

(3) Unless otherwise provided in CMC 18.65.050 or part of an allowed exemption, removal of any vegetation from a steep slope hazard area or buffer is prohibited. (Ord. 06-17 § 4 (Exh. B))

**18.65.300 Additional critical area report requirements – Geologically hazardous areas.**

(1) Before approving any alteration or development under this article, the City may require the applicant to submit the following information in addition to or as part of the critical areas report:

(a) A geotechnical report prepared by a geotechnical engineer or engineering geologist licensed in the State of Washington that describes how the proposed development will impact or be impacted by each of the following on the subject property and nearby properties:

- (i) Slope stability, landslide hazard, and sloughing;
- (ii) Erosion hazards;
- (iii) Seismic hazards;
- (iv) Ground water;
- (v) Seeps, springs, streams and other surface waters;
- (vi) Existing vegetation, including size and type of significant trees;
- (vii) Identification of existing fill areas;
- (viii) Soil description in accordance with United Soil Classification System; and
- (ix) Depth to ground water and estimates of potential seasonal fluctuations;

(b) A topographic survey, in two-foot contours, that identifies the type and extent of geologically hazardous areas on site and off site that are likely to impact or be impacted by the proposal;

(c) Delineation of areas containing slopes 15 percent or greater and 40 percent or greater;

(d) The location of storm drainage facilities on the subject property;

(e) Recommended foundation and retaining wall design criteria and optimal location for buildings, roadways and other improvements. Including bearing layer(s), allowable capacities, minimum width, minimum depth, estimated settlements (total and differential, lateral loads, and other pertinent recommendations);

(f) Grading and earthwork, including compaction and fill material requirements, use of site solids as fill or backfill, imported fill or backfill requirements, height and inclination of both cut and fill slopes and erosion control and wet weather construction considerations and/or limitations;

(g) Surface and subsurface drainage requirements and drainage material requirements;

(h) Recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent properties;

(i) Assessment of seismic ground motion amplification and liquefaction potential; and

(j) Any other information the City determines is reasonably necessary to evaluate the proposal.

(2) A decision by the Director to reduce the buffer shall be based on a critical area report that includes the following assessment criteria:

(a) Steep slope and landslide hazard development areas shall be subject to site-specific geotechnical studies;

(b) Steep slope and landslide hazard development areas shall be subject to engineering design considerations that ensure the stability of steep slope areas. Engineering design considerations shall include but are not limited to the following:

(i) Soil cuts require slope stability analysis to evaluate the change in relative stability. Based on the results of the stability analysis, retaining structures will be required to replace any lateral soil support lost. In no case shall the factor of safety be less than one and one-half;

(ii) Soil fills require slope stability analysis and engineering design measures, including keying the fill, compaction, drainage measures, reinforced earth, and structural retaining walls;

(iii) Foundations must be extended to firm, undisturbed native soil, and embedded deep enough to resist lateral loads caused by soil creep (surficial slope movement inherent to all steep slope areas) and other lateral loads which the foundation may be subject to (i.e., seismic and deep seated slope failures);

(iv) Provide subgrade (i.e., reinforced compacted subgrade) or retaining wall design that replaces the support of cuts; designed with a factor of safety of at least one and one-half. Compacted subgrade without reinforcement or retaining structures will not be considered for the support of cuts;

(v) Provide effective, positive drainage for all underground elements of structures or facilities; and

(vi) All utility connections within steep slope and landslide hazards shall have sufficient flexible connections to avoid utility failure;

(c) The City may employ an outside geotechnical engineer at the applicant's expense for third-party review of any geotechnical analyses.

(3) The decision by the Director to reduce the buffer shall include the following conditions:

(a) The applicant shall establish a mechanism that is acceptable to the Director that notifies all future buyers of the lot that the steep slope buffer was reduced and that development has occurred within 50 feet of the steep slope or the steep slope has been eliminated (e.g., notice on title); and

(b) The applicant shall execute an agreement on a form approved by the City Attorney, which indemnifies and holds the City harmless for development within 50 feet of the steep slope.

Both conditions shall be met prior to the issuance of a building permit. The Director may attach additional conditions as necessary to achieve the purpose and intent of this section.

(4) If the City approves any development under this section, it may, among other appropriate conditions, impose the following conditions of approval:

(a) The recommendations of the geotechnical report are followed;

(b) A geotechnical engineer or engineering geologist shall be present on site during all development activities. As an alternative, the City may require minimum site visits by the geotechnical engineer or engineering geologist, as required by the City engineer, to establish proper methods, techniques and adherence to plan drawings;

(c) Trees, shrubs and groundcover are retained except where necessary for approved development activities on the subject property;

(d) Additional vegetation is planted in disturbed areas; and

(e) Submit a letter by the geotechnical engineer or engineering geologist stating that they have reviewed the project plan drawings and in their opinion the plans and specifications meet the intent of the geotechnical report. (Ord. 06-17 § 4 (Exh. B))

#### Article IV. Critical Aquifer Recharge Areas

##### 18.65.311 Critical aquifer recharge areas –Designation.

(1) Critical aquifer recharge areas include those areas with a critical recharging effect on aquifers used for potable water where an aquifer that is a source of drinking water is vulnerable or susceptible to contamination that would affect the potability of water. Susceptibility to ground water contamination occurs where there is a combination of permeable soils, permeable subsurface geology, and decreasing hydraulic head with depth. See [Exhibit D the Natural Resources Element of the Covington Comprehensive Plan](#) –of the ordinance codified in this chapter for a map of potential aquifer recharge areas within the City of Covington.

(2) Critical aquifer recharge areas are categorized as Category I, II, or III as follows:

(a) Category I critical aquifer recharge areas are mapped areas that Covington determined are highly susceptible to ground water contamination and that are located within a sole source aquifer or wellhead protection area.

(b) Category II critical aquifer recharge areas are mapped areas that Covington determined to have medium susceptibility to ground water contamination and that are located within a sole source aquifer or within an area approved in accordance with Chapter 246-290 WAC as a wellhead protection area for a municipal or district drinking water system, or an area over a sole source aquifer for a private potable water well in compliance with Department of Ecology and Public Health standards, or are highly susceptible to ground water contamination and are not located in a sole source aquifer or wellhead protection area.

(c) Category III critical aquifer recharge areas are mapped areas that Covington has determined have low susceptibility to ground water contamination.

(3) The Director may upon consultation with affected jurisdictions, and the affected local water purveyor, determine the location of aquifer recharge areas based on additional information about areas with susceptibility to ground water contamination or on changes to sole source aquifers or wellhead protection areas as identified in wellhead protection programs. See [Exhibit D of the ordinance codified in this chapter for a map of potential aquifer recharge areas within the City of Covington.](#) (Ord. 06-17 § 4 (Exh. B))

##### 18.65.312 Critical aquifer recharge areas – Reclassification or declassification.

Upon application supported by a critical areas report that includes a hydrogeologic site evaluation, the Director may upon consultation with the affected local water purveyor determine that an area that is classified as a critical aquifer recharge area on the map adopted and amended by public rule as follows:

(1) Does not meet the criteria for a critical aquifer recharge area and declassify that area; or

(2) Has the wrong critical aquifer recharge area classification and determine the correct classification. (Ord. 06-17 § 4 (Exh. B))

##### 18.65.313 Critical aquifer recharge areas – Categories.

Critical aquifer recharge areas are categorized pursuant to King County critical aquifer recharge areas as follows:

(1) Category I critical aquifer recharge areas include those mapped areas that Covington has determined are highly susceptible to ground water contamination and that are located within a sole source aquifer or a wellhead protection area;

(2) Category II critical aquifer recharge areas include those mapped areas that Covington has determined:

(a) Have a medium susceptibility to ground water contamination and are located in a sole source aquifer or a wellhead protection area; or

(b) Are highly susceptible to ground water contamination and are not located in a sole source aquifer or wellhead protection area; and



(3) Category III critical aquifer recharge areas include those mapped areas that Covington has determined have low susceptibility to ground water contamination. (Ord. 06-17 § 4 (Exh. B))

**18.65.314 Critical aquifer recharge areas – Protection.**

To protect critical aquifer recharge areas, in accordance with Chapter 36.70A RCW, in addition to the terms of this chapter the following code provisions are established to further protect critical aquifer recharge areas: Chapters 13.25, 13.30, 14.60 and 16.15 CMC.

(1) Development that will not cause contaminants to enter the aquifer may be permitted in critical aquifer recharge areas.

(2) The City shall impose development conditions to prevent degradation of critical aquifer recharge areas. Development conditions shall be based on all known, available, and reasonable methods of prevention, control and treatment (“AKART”).

(3) The proposed activity must comply with the water source protection requirements and recommendations of the Federal Environmental Protection Agency, State Department of Ecology, State Department of Health, and Public Health – Seattle and King County.

(4) The proposed activity must be designed and constructed in accordance with the City’s stormwater manuals adopted in Chapter 13.25 CMC. (Ord. 06-17 § 4 (Exh. B))

**18.65.315 Critical aquifer recharge areas – Development regulations.**

(1) Any proposed development located in critical aquifer recharge areas shall submit a hazardous materials inventory statement with a permit, land use, or business license application. Ongoing operation and maintenance activities of public wells by public water providers are exempt from these requirements.

(2) The City will review the hazardous materials inventory statement along with the permit, land use, or business license application to determine whether hazardous materials will be used, stored, transported or disposed of in connection with the proposed activity. The City shall make the following determinations and apply the appropriate capture zone protection measures:

(a) No hazardous materials are involved;

(b) Hazardous materials are involved; however, existing laws or regulations adequately mitigate any potential impact, and documentation is provided to demonstrate compliance; or

(c) Hazardous materials are involved and the proposal has the potential to significantly impact critical aquifer recharge areas. The City may require a hydrogeologic assessment with a critical areas report to be prepared by a qualified professional in order to determine the potential impacts of contamination on the aquifer. The report shall include the following site and proposal-related information:

(i) Information regarding geologic and hydrogeologic characteristics of the site, including the surface location of the capture zone in which it is located and the type of infiltration of the site;

(ii) Ground water depth, flow direction, and gradient;

(iii) Location of other critical areas, including surface waters, within 200 feet of the site;

(iv) Best management practices and integrated pest management proposed to be used, including:

(A) Predictive evaluation of ground water withdrawal effects on nearby wells and surface water features;

(B) Predictive evaluation of contaminant transport based on potential releases to ground water; and

(C) Predictive evaluation of changes in the infiltration/recharge rate.

- (3) A spill containment and response plan may be required to identify equipment and/or structures that could fail, and shall include provisions for inspection as required by the applicable State regulations.
- (4) A ground water monitoring plan may be required to monitor quality and quantity of ground water, surface water runoff, and/or site soils. The City may require the owner of a facility to install one or more ground water monitoring wells to accommodate the required ground water monitoring. Criteria used to determine the need for site monitoring shall include, but not be limited to, the proximity of the facility to production or monitoring wells, the type and quantity of hazardous materials on site, and whether or not the hazardous materials are stored in underground vessels.
- (5) The City may employ an outside consultant at the applicant's expense for third-party review of the critical areas report, hydrogeologic assessment, the spill containment and response plan, and the ground water monitoring plan.
- (6) The following new development proposals and alterations are not allowed on a site if any portion of the site is located in a Category I critical aquifer recharge area:
- (a) Transmission pipelines carrying petroleum or petroleum products;
  - (b) Sand and gravel, and hard rock mining on land that is not zoned for mining;
  - (c) Mining of any type below the upper surface of the saturated ground water that could be used for potable water supply;
  - (d) Processing, storage, and disposal of radioactive wastes, as defined in Chapter 43.200 RCW;
  - (e) Hydrocarbon extraction;
  - (f) Commercial wood treatment facilities on permeable surfaces;
  - (g) Underground storage tanks with hazardous substances, as defined in Chapter 70.105 RCW;
  - (h) Above-ground storage tanks for hazardous substances, as defined in Chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;
  - (i) Golf courses;
  - (j) Cemeteries;
  - (k) Wrecking yards;
  - (l) Landfills for hazardous waste, municipal solid waste, or special waste; and
  - (m) On lots smaller than one acre, on-site septic systems that are not approved by the Washington State Department of Health and either:
    - (i) Do not use an up-flow media filter system or a proprietary packed-bed filter system; or
    - (ii) Are not designed to achieve approximately 80 percent total nitrogen removal for typical domestic wastewater.

(7) The following new development proposals and alterations are not allowed on a site if any portion of the site is located in a Category II critical aquifer recharge area:

- (a) Mining of any type below the upper surface of the saturated ground water that could be used for potable water supply;
- (b) Processing, storage, and disposal of radioactive wastes, as defined in Chapter 43.200 RCW;

- (c) Hydrocarbon extraction;
  - (d) Commercial wood treatment facilities located on permeable surfaces;
  - (e) Underground storage tanks with hazardous substances, as defined in Chapter 70.105 RCW, that do not meet the requirements of Chapter 173-360 WAC and the International Fire Code;
  - (f) Above-ground storage tanks for hazardous substances, as defined in Chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;
  - (g) Wrecking yards;
  - (h) Landfills for hazardous waste, municipal solid waste, or special waste; and
  - (i) On lots smaller than one acre, on-site septic systems that are not approved by the Washington State Department of Health and either:
    - (i) Do not use an up-flow media filter system or a proprietary packed-bed filter system; or
    - (ii) Are not designed to achieve approximately 80 percent total nitrogen removal for typical domestic wastewater.
- (8) The following new development proposals and alterations are not allowed on a site if any portion of the site is located in a Category III critical aquifer recharge area:
- (a) Processing, storage, and disposal of radioactive wastes, as defined in Chapter 43.200 RCW;
  - (b) Hydrocarbon extraction;
  - (c) Commercial wood treatment facilities located on permeable surfaces;
  - (d) Underground storage tanks with hazardous substances, as defined in Chapter 70.105 RCW, that do not meet the requirements of Chapter 173-360 WAC and the International Fire Code;
  - (e) Above-ground storage tanks for hazardous substances, as defined in Chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;
  - (f) Wrecking yards; and
  - (g) Landfills for hazardous waste, municipal solid waste, or special waste.
- (9) The following standards apply to development proposals and alterations that are substantial improvements on a site if any portion of the site is located in a critical aquifer recharge area:
- (a) The owner of an underground storage tank in a Category I critical aquifer recharge area shall properly decommission or remove the tank; and
  - (b) The owner of an underground storage tank in a Category II or III critical aquifer recharge area shall meet the requirements of Chapter 173-360 WAC and the International Fire Code or shall properly decommission or remove the tank.
- (10) In any critical aquifer recharge area, the property owner shall properly decommission an abandoned well.
- (11) On sites located in a critical aquifer recharge area, development proposals and alterations for new development, including, but not limited to, a subdivision, short subdivision, commercial site development, binding site plan, or dwelling unit, shall incorporate best management practices pursuant to the stormwater manuals adopted in Chapter 13.25 CMC into the site design in order to manage stormwater runoff.

(12) The City may approve a development proposal otherwise prohibited by subsection (6), (7) or (8) of this section if the applicant demonstrates through a critical areas report that the development proposal is located outside of the critical aquifer recharge area and that the development proposal will not cause an unmitigated significant adverse environmental impact to the critical aquifer recharge area. (Ord. 06-17 § 4 (Exh. B))

**18.65.316 Critical aquifer recharge areas – Evaluation and implementation.**

The City may evaluate and implement, as appropriate, ground water management plans and wellhead protection programs to further protect ground water resources as the critical aquifer protection program. In order to protect ground water quality, the City may require a ground water monitoring plan and/or a hydrogeologic critical area assessment report for new development projects. (Ord. 06-17 § 4 (Exh. B))

**Article V. Wetlands**

**18.65.318 Wetland – Identification and evaluation.**

(1) Generally. Identification of wetlands and delineation of their boundaries pursuant to this chapter shall be done using the U.S. Army Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987) and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0) (U.S. Army Corps of Engineers 2010), or as amended. All areas within the City meeting the wetland criteria are hereby designated critical areas and are subject to the provisions of this chapter. Wetland delineations are valid for five years, after such date the City shall determine whether a revision or additional assessment is necessary.

(2) Evaluation. The developer shall determine if a wetland exists on or within 225 feet of the subject property, and shall submit a wetland report prepared by a qualified professional. The City will verify the findings in the report based on current studies and field verification. The wetland report and the accompanying plan sheets shall contain the following information:

- (a) Critical area report information identified in CMC 18.65.110;
- (b) Identification of all local, State, and/or Federal wetland related permit(s) required for the proposal;
- (c) Documentation of fieldwork, including field data sheets, rating forms, and baseline hydrologic data;
- (d) Description of the methodologies used to conduct the wetland delineations, rating forms, or impact analyses, including references;
- (e) Identification and characterization of all wetlands and buffers on and within 225 feet of the subject property. For off-site areas with limited or no access, estimate conditions using best available information;
- (f) Provide the following for each wetland identified on and/or within 225 feet of the subject property. Acreage estimates, classifications, and ratings shall be based on entire wetland complexes, not only the portion present on the subject property:
  - (i) Wetland rating and score for each function;
  - (ii) Required buffers;
  - (iii) Hydrogeomorphic classification;
  - (iv) Wetland acreage;
  - (v) U.S. Fish and Wildlife Service (Cowardin) classification of vegetation communities;
  - (vi) Habitat elements;
  - (vii) Soil conditions based on site assessment and/or soil survey information; and

(viii) Hydrologic information such as location and condition of inlets/outlets, estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, and flood debris);

(g) An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and supporting documentation.

(3) No development or improvements may be located within a wetland except as provided in this chapter. (Ord. 06-17 § 4 (Exh. B))

**18.65.319 Wetlands – Classes and categories.**

(1) Different types of wetlands are separated from one another on the basis of wetland class and wetland category. Wetland class is determined by using a scientific system based upon dominant plant communities, substrate conditions, hydrologic regime, and location in the watershed. Wetland category is determined by using a rating system based on specific attributes such as rarity, sensitivity to disturbance, and the functions they provide.

(2) Wetland Class. Two classification systems are commonly used to describe wetlands. The first is a science-based classification system used by the U.S. Fish and Wildlife Service as described in Classification of Wetlands and Deepwater Habitats of the United States, Second Edition (Federal Geographic Data Committee. 2013. FGDC-STD-004-2013).

The second is the hydrogeomorphic method (HGM) classification (Brinson 1993), a system WDOE incorporated for use in the Washington State Wetland Rating System for Western Washington (WDOE Publication No. 14-06-029, or as hereafter amended).

(3) Wetland Category. Wetland category is used to regulate activities in a wetland and in determining the standard width of the required wetland buffer. The wetland category is determined after a wetland has been identified and delineated in accordance with the approved wetland delineation manual.

WDOE Publication No. 14-06-029, or as amended, contains the definitions and scoring methods used for determining wetlands functions and rating. The wetland category of an individual wetland is determined by the total score for the functions which is recorded on the first page of the wetland rating form included in WDOE Publication No. 14-06-029, or as amended. Wetlands are also rated for “special characteristics,” when applicable, the value of which is included in the final category rating.

(a) Category I. Category I wetlands are: (i) wetlands of high conservation value as identified by scientists of the Washington Natural Heritage Program/DNR; (ii) bogs; (iii) mature and old-growth forested wetlands larger than one acre; (iv) wetlands that perform functions at high levels (scoring 23 points or more). These wetlands: (i) represent unique or rare wetland types; (ii) are more sensitive to disturbance than most wetlands; (iii) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (iv) provide a high level of functions.

(b) Category II. Category II wetlands are wetlands that perform functions well (scoring between 20 and 22 points).

(c) Category III. Category III wetlands are: (i) wetlands with a moderate level of functions (scoring between 16 and 19 points); and (ii) can often be adequately replaced with a well-planned mitigation project. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

(d) Category IV. Category IV wetlands have the lowest levels of functions (scores less than 16 points) and are often heavily disturbed. (Ord. 06-17 § 4 (Exh. B))

**18.65.320 Wetlands – Buffers.**

(1) Wetland – Buffers. Except as otherwise provided in this section, buffers shall be provided from the wetland edge in accordance with the following standards:

(a) The standard buffer widths of the following table shall apply if impact minimization measures are included in accordance with subsection (2), (3), or (4) of this section:

WETLAND CATEGORY AND CHARACTERISTICS	BUFFER
<b>Category I</b>	
Bog	225 feet
Habitat score from 8 to 9 points	225 feet
Habitat score from 6 to 7 points	<del>465-110</del> feet
Category I wetlands not meeting any of the criteria above	<del>425-75</del> feet
<b>Category II</b>	
Habitat score from 8 to 9 points	225 feet
Habitat score from 6 to 7 points	<del>465-110</del> feet
Category II wetlands not meeting any of the criteria above	<del>400-75</del> feet
<b>Category III</b>	
<del>Habitat score from 8-9 points</del>	<del>225</del> feet
Habitat score from 6 to 7 points	<del>465-110</del> feet
Category III wetlands not meeting any of the criteria above	<del>75-60</del> feet
<b>Category IV</b>	<del>50-40</del> feet

(2) Buffer Impact Minimization Measures. The following measures shall be implemented in order to utilize the standard buffer widths as noted in subsection (1) of this section.

(a) The following measures shall be used by an applicant to obtain a standard buffer width under subsection (1) of this section:

Disturbance	Required Measures to Minimize Impacts
Lights	Direct lights away from wetland
Noise	Locate activity that generates noise away from wetland
	If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source
	For activities that generate relatively continuous, potentially disruptive noise, such as heavy industry, establish an additional 10-foot heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered
	Establish covenants limiting use of pesticides within 150 feet of wetland
	Apply integrated pest management
Change in water regime	Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces and new lawns

Disturbance	Required Measures to Minimize Impacts
Pets and human disturbance	Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance of wildlife by humans and pets using vegetation appropriate for the ecoregion
	Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	Use best management practices to control dust
Degraded buffer condition	Nonnative plants to be removed and replaced with native vegetation per an approved landscaping plan to be bonded and monitored for not less than a five-year period after completion to assure at least 80% survival of plantings
Stormwater runoff	Retrofit stormwater detention and treatment for roads and existing adjacent development
	Prevent channelized flow from lawns that directly enters the buffer
	Use low intensity development techniques
Disruption of corridors or potential or existing wildlife habitat connections	Maintain connections to off-site areas that are undisturbed
	Restore corridors or connections to off-site habitats by replanting

(3) If a Category I or II wetland with habitat score seven points or greater is located within 300 feet of a priority habitat area as defined by the Washington State Department of Fish and Wildlife, the buffer established by subsection (1) of this section shall be increased by 50 feet unless:

(a) The applicant provides a relatively undisturbed vegetated corridor at least 100 feet wide between the wetland and all priority habitat areas located within 300 feet of the wetland. The corridor shall be protected for the entire distance between the wetland and the priority habitat through dedication to the City of a conservation easement, native or the equivalent; and

(b) The applicable mitigation measures in subsections (3) and (4)(b) of this section shall be applied.

(4) Buffer Averaging. The Director may approve a modification of the standard buffer widths required on a case-by-case basis by averaging buffer widths, based on review of a critical area report prepared by a qualified professional describing the current functions of the wetland and its buffer and the measures that will be taken to ensure that there is no loss of wetland function due to buffer averaging, if:

(a) The Director determines that the ecological structure and function of the buffer after averaging are equivalent to or greater than the structure and function before averaging;

(b) The resulting buffer meets the following standards:

(i) The total area of the buffer after averaging is equivalent to or greater than the area of the buffer before averaging;

(ii) The additional buffer is contiguous with the standard buffer; and

(iii) Averaging does not occur into the buffer of another wetland or stream except as otherwise allowed.

(c) Additional buffer reductions as allowed in this subsection (4) may be applied to a request for buffer averaging as provided in this section;

(d) In no case shall a standard averaged buffer width be reduced to less than 75 percent of the standard buffer at any location;

(e) Averaging does not result in any impact to other critical areas; and

(f) Averaging does not result in a significant adverse impact to habitat associated with species of local importance.

(5) Where a legally established street transects a wetland buffer, the Director may approve a modification of the minimum required buffer width to the edge of the roadway if part of the buffer is on the other side of the roadway:

(a) Does not provide additional protection of the proposed development or the wetland;

(b) Does not perform any biological, geological or hydrological buffer functions relating to the undisturbed portions of the wetland buffer;

(c) The alterations allowed in CMC 18.65.050 are not allowed in buffers established in accordance with this subsection; and

(d) The buffer widths established in accordance with this subsection are not further modified as provided for in subsections (3) and (4) of this section.

(6) The City may establish minimum buffer widths for wetlands that are created as a result of enhancement or restoration projects that are not mitigation for a development proposal or alteration. (Ord. 06-17 § 4 (Exh. B))

**18.65.340 Wetlands – Specific mitigation requirements.**

In addition to the requirements in CMC 18.65.130 and 18.65.135, the following applies to mitigation to compensate for the adverse impacts associated with an alteration to a wetland:

(1) Mitigation measures must achieve equivalent or greater wetland functions, including, but not limited to:

(a) Habitat complexity, connectivity and other biological functions; and

(b) Seasonal hydrological dynamics, water storage capacity and water quality;

(2) The following ratios of area of mitigation to area of alteration apply to determine mitigation area required for permanent alterations:

Category	Creation or Re-establishment	Rehabilitation	Creation (C) and Rehabilitation (R) or Enhancement (E)	Enhancement Only
IV	1.5:1	3:1	1:1 C and 1:1 R or 2:1 E	6:1
III	2:1	4:1	1:1 C and 2:1 R or 4:1 E	8:1
II	3:1	6:1	1:1 C and 4:1 R or 8:1 E	12:1
I – forested	6:1	12:1	1:1 C and 10:1 R or 20:1 E	24:1
I – based on score for functions	4:1	8:1	1:1 C and 6:1 R or 12:1 E	16:1
I – bog	Not allowed	Case-by-case	Not possible	Case-by-case

(3) As an alternative to mitigation ratios provided in the table in subsection (2) of this section, the City of Covington may approve mitigation using the WDOE Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington (Publication No. 10-06-011) (Hruby 2012) or as revised. This tool can be used to determine mitigation needs by estimating the functions and values lost when a wetland is altered, and estimating the gain in functions and values that result from the mitigation. This method must be applied by individuals trained and approved by Ecology in the use of this method;

(4) The City may consider two or more contiguous sites under common ownership as one site for the purpose of mitigation ratios when:

(a) All applicable sites are in the same drainage sub-basin;



- (b) Equivalent or greater wetland functions will be achieved; and
  - (c) A notice on title, identifying the location, interconnectivity, and requirement for mitigation are recorded against each site pursuant to CMC 18.65.170;
- (5) For temporary alterations to a wetland or its buffer that are predominantly woody vegetation, the City may require mitigation in addition to restoration of the altered wetland or buffer;
- (6) For rectifying an illegal alteration to any category wetland or its buffer, the ratio of area of mitigation to area of alteration for repair, rehabilitation or restoration is one and one-half to one and the mitigation measures shall replicate the natural pre-alteration wetland configuration at its natural pre-alteration location to the maximum extent practical, including:
- (a) The wetland edge and buffer configuration;
  - (b) The depth, width, length and gradient;
  - (c) The soil type, conditions and physical features;
  - (d) Similar species diversity and density; and
  - (e) The hydrologic, water quality, and biologic functions;
- (7) Mitigation for an alteration to a buffer of a wetland that occurs along an aquatic area lake shoreline in accordance with an alteration identified in CMC 18.65.050 shall include, but not be limited to, on-site revegetation, maintenance and other restoration of the buffer or setback area to the maximum extent practical and shall be evaluated against the requirements of the City's SMP if applicable; and
- (8) The City may allow mitigation for adverse impacts to buffers off the development proposal site at a ratio higher than that required for mitigation on site if the applicant demonstrates that it is not feasible to mitigate on the development proposal site, in the same wetland or wetland complex, pursuant to off-site mitigation requirements in CMC 18.65.135. (Ord. 06-17 § 4 (Exh. B))

## Article VI. Fish and Wildlife Habitat Conservation Areas

### 18.65.350 Fish and wildlife habitat conservation areas – Applicability.

(1) This article regulates development in fish and wildlife habitat conservation areas ("FWHCA") and their associated buffers. FWHCAs in the City include subsections (2) through (6) of this section. All areas within the City meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter and shall be managed consistent with best available science, such as the current edition of the Washington Department of Fish and Wildlife's Management Recommendations for Priority Habitats and Species.

(2) Streams and Shorelines. Streams and shoreline waterbodies shall be classified in accordance with the Washington Department of Natural Resources permanent water typing system (WAC 222-16-030), or as amended, which is hereby adopted in its entirety by reference and summarized as follows:

- (a) Type S: streams and water bodies inventoried as "shorelines of the State" under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW;
- (b) Type F: streams that contain fish habitat;
- (c) Type Np: perennial nonfish habitat streams; and
- (d) Type Ns: seasonal nonfish habitat streams.

(3) Naturally Occurring Ponds. Those ponds that are less than 20 acres in size and not regulated as "shorelines of the State." Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish

or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

(4) Areas with State or Federally Designated Endangered, Threatened, and Sensitive Species Having a Primary Association.

(a) Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and NOAA Fisheries that are in danger of extinction or threatened to become endangered. The U.S. Fish and Wildlife Service and the National Marine Fisheries Service should be consulted for current listing status.

(b) State-designated endangered, threatened, and sensitive species are those fish and wildlife species native to the State of Washington identified by the Washington Department of Fish and Wildlife that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the State without cooperative management or removal of threats. State-designated endangered, threatened, and sensitive species are periodically recorded in WAC 232-12-014 (State endangered species) and WAC 232-12-011 (State threatened and sensitive species). The State Department of Fish and Wildlife maintains the most current listing and should be consulted for current listing status.

(5) State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the State Department of Fish and Wildlife.

(6) Habitats and Species of Local Importance. Habitats and species of local importance are those identified by the City of Covington, including but not limited to those habitats and species that, due to the population status or sensitivity to habitat manipulation, warrant protection. Habitats may include a seasonal range or habitat element where a species has a primary association, and if altered, may reduce the likelihood that the species will maintain and reproduce over the long term. The City of Covington has determined habitats and species in subsection (5) of this section are habitats and species of local importance. Additional habitats and species of local importance are those identified by the City including:

(a) Land essential for preserving connections between habitat blocks and critical areas, such as wildlife habitat networks or corridors; and

(b) Areas of rare plant species and high quality ecosystems. (Ord. 06-17 § 4 (Exh. B))

**18.65.355 Fish and wildlife habitat conservation areas – Designation and purpose.**

(1) Fish and wildlife habitat conservation areas include nesting and breeding grounds for State and Federal threatened, endangered, sensitive or priority species listed by the Washington State Department of Fish and Wildlife, including corridors or networks which connect priority habitat, and those areas which provide habitat for species of local importance which have been or may be identified by the City of Covington.

(2) The purpose of fish and wildlife habitat conservation areas shall be to provide opportunities for food, cover, nesting, breeding and movement for fish and wildlife within the City; maintain and promote diversity of species and habitat within the City; coordinate habitat protection with elements of the City's established or planned wildlife corridors wherever possible; help to maintain air and water quality; control erosion; provide areas for recreation, education and scientific study and aesthetic appreciation; and contribute to the established character of the City.

(3) The City of Covington has given special consideration to the identification and regulation of fish and wildlife habitat conservation areas that support anadromous fisheries in order to preserve and enhance species which are or may be listed as endangered, threatened or priority species by State and Federal agencies. (Ord. 06-17 § 4 (Exh. B))

**18.65.358 Fish and wildlife habitat conservation areas – Classification.<sup>1</sup>**

(1) Fish and wildlife habitat conservation areas are those areas designated by the City based on review of the best available science; input from Washington Department of Fish and Wildlife, Washington Department of Ecology, and other agencies; and any of the following criteria:

- (a) The presence of species proposed or listed by the Federal government or the State of Washington as endangered, threatened, sensitive, or priority; or
- (b) Streams and wetlands and their associated buffers that provide significant habitat for fish and wildlife.

(2) The City designates the following fish and wildlife habitat conservation areas that meet the above criteria, and this designation does not preclude designation of additional areas as provided in subsection (1) of this section:

- (a) All regulated shorelines, streams, and wetlands and their associated buffers as determined by a qualified specialist, and as approved by the Director;
- (b) Naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat; and
- (c) Habitat associated with species of local importance as provided in CMC 18.65.350. (Ord. 06-17 § 4 (Exh. B))

**18.65.360 Streams & Waters of the State Shorelines – Standard buffers.**

(1) Streams ~~and Waters of the State Shorelines~~ – Buffers. No development may take place within a stream ~~or waters of the state shoreline waterbody~~ or within the following standard buffer areas except as allowed within this chapter ~~or the SMP~~. Buffer widths shall be measured outward on a horizontal plane from the ordinary high water line or top of bank if ordinary high water line cannot be identified:

- (a) If the stream or shoreline buffer does not include a steep slope hazard area or landslide hazard area:
  - (i) A Type S waterbody (shoreline) buffer is ~~115 feet or as required in the adopted Shoreline Master Program (SMP); defined in the Shoreline Master Program (SMP) (Table 1.05.280-2 CMC). –for all waters of the state.~~
  - (ii) A Type F aquatic stream buffer ~~area~~ is 115 feet;
  - (iii) A Type Np stream buffer is 60 feet; and
  - (iv) A Type Ns stream buffer is 30 feet;
- (b) If the stream or shoreline buffer does include a steep slope hazard area or landslide hazard area, the ~~stream-~~buffer width is the greater of either the ~~stream-~~buffer in this section, or the SMP, or 25 feet beyond the top of the hazard area; and
- (c) The stream or shoreline buffer includes the entire mapped severe channel migration hazard area plus the appropriate stream buffer required by this section measured from the outer edge of the severe channel migration hazard area.

(2) Buffer Averaging. The Director may approve a modification of the minimum required standard buffer widths, on a case-by-case basis by averaging buffer widths, based on review of a critical area report prepared by a qualified professional describing the current function of the stream and the stream buffer and the measures that will be taken to ensure that there is no loss of stream function due to buffer averaging if:

- (a) The Director determines that the ecological structure and function of the buffer after averaging is equivalent to or greater than the structure and function before averaging;
- (b) The resulting buffer meets the following standards:
- (i) The total area of the buffer after averaging is equivalent to or greater than the area of the buffer before averaging;
  - (ii) The additional buffer is contiguous with the standard buffer;
  - (iii) Averaging does not occur waterward of the top of the associated steep slopes or into a channel migration zone; and
  - (iv) Averaging does not occur into the buffer of a wetland except as otherwise allowed;
- (c) In no case shall a standard average stream buffer be reduced to less than 60 percent of the standard buffer in any location;
- (d) Averaging does not result in any impact to another critical area;
- (e) Averaging does not result in a significant adverse impact to habitat associated with species of local importance; and
- (f) Buffer averaging within a shoreline jurisdiction shall also be subject to the City's SMP regulations and Appendix A as set forth in Chapter CMC 16.05.280(2)(c)-CMC.
- (3) Buffer Reduction. The Director may approve a modification of the minimum required buffer width for a development proposal if the applicant demonstrates that the buffer cannot provide certain functions because of soils, geology or topography subject to the following:
- (a) The Director shall establish the buffer width based on the ecological functions that the buffer can provide based on soils, geology and topography;
  - (b) The buffer widths established in accordance with this subsection are not further modified as provided for in subsection (2) of this section; and
  - (c) Within ~~the~~ shoreline jurisdiction, stream and Pipe Lake shoreline buffer reductions and mitigation is-are implemented pursuant to ~~CMC 18.65.380~~CMC 16.05.280(3)c and CMC 16.05.230(3).
- (4) Where a legally established street transects a stream buffer, the Director may approve a modification of the minimum required buffer width to the edge of the roadway if the part of the buffer on the other side of the roadway:
- (a) Does not provide additional protection of the proposed development or the stream;
  - (b) Does not perform any biological, geological or hydrological buffer functions relating to the undisturbed portions of the stream buffer;
  - (c) The alterations allowed in CMC 18.65.050 are not allowed in buffers established in accordance with this subsection; and
  - (d) The buffer widths established in accordance with this subsection are not further modified as provided for in subsections (2) and (3) of this section.
- (5) The Director may establish minimum buffer widths for streams that are created as a result of enhancement or restoration projects that are not mitigation for a development proposal or alteration.
- (6) The buffer areas established by this section do not apply to any segment of a stream that is presently within a culvert, unless that stream will be taken out of the culvert as part of development of the subject property.

(7) Permanently Altered Buffer. The Director may provide written approval for a buffer reduction when existing conditions are such that portions of the required buffer exist in a permanently altered state (e.g., roadways, paved parking lots, and permanent structures) and do not provide any buffer function, based on review of a critical area report prepared by a qualified professional. The buffer may be reduced up to the area where the altered conditions exist.

(8) Increased Buffer Widths. The Director may require increased buffer widths that are necessary to protect habitat, health, safety, and welfare on site-specific areas as follows:

- (a) When the Director determines that the buffer width is insufficient to prevent habitat degradation;
- (b) When a channel migration zone is present. The stream buffer width shall be measured from the outer edge of the channel migration zone; or
- (c) When the stream buffer area is within an erosion or landslide hazard area. (Ord. 06-17 § 4 (Exh. B))

**18.65.365 Streams and shoreline associated buffers – Development standards and alterations.**

The following standards apply to development proposals and alterations on sites containing stream and shoreline buffers:

- (1) Only the alterations identified in CMC 18.65.050 are allowed in non-shoreline streams and stream buffers. ~~Activities and alterations to shoreline buffers shall be subject to the provisions of the SMP, CMC 16.05, unless specifically allowed under another provision of the City's SMP;~~
- (2) Grading for allowed alterations in stream buffers is only allowed from May 1st to October 1st;
- (3) The soil duff layer should not be disturbed to the maximum extent practical. The disturbed duff layer should be redistributed to other areas of the project site where feasible;
- (4) The moisture-holding capacity of the topsoil layer should be maintained by minimizing soil compacting or re-establishing natural soil structure and the capacity to infiltrate on all areas of the site that impervious surfaces do not cover;
- (5) To the maximum extent practical, vegetation outside the stream buffer is spatially connected to the vegetation in the buffer to prevent creation of windthrow hazards in the buffer;
- (6) New structures within a stream buffer, permitted in accordance with this chapter, shall be sited to avoid the creation of future hazard trees and to minimize the impact on ground water movement from the structure;
- (7) To the maximum extent practical, hazard trees are retained in stream buffers and are topped to reduce the hazard or pushed over toward the stream; and
- (8) Alterations may only be permitted if also approved by State and/or Federal permits, if applicable. (Ord. 06-17 § 4 (Exh. B))

**18.65.370 Streams – Permitted alterations.**

Alterations to shoreline streams, waterbodies and buffers are allowed pursuant to the SMP, CMC 16.05. Alterations to non-shoreline streams and their buffers may be allowed pursuant to CMC 18.65.050 and as follows:

~~(1) The City's SMP shall be consulted for any activities within the shoreline jurisdiction. In Covington, three areas have been designated as areas within a shoreline jurisdiction: Pipe Lake; the lower reaches of Jenkins Creek; and the lower reaches of Big Soos Creek. This information is listed here for informational purposes only. Critical area regulations for activities within the shoreline jurisdiction are located in Appendix A of the SMP, or as provided in the City's SMP, as defined in CMC 16.05.040;~~

(1) Alterations may only be permitted if based upon a critical area report prepared in accordance with CMC 18.65.110;

(32) Upon application for critical area review or associated development proposal, the City will notify affected agencies and native tribes of the proposed alterations prior to any alteration if a stream is in a frequently flooded area. The applicant will be required to provide a response or additional documentation based on requests by affected agencies and native tribes;

(43) There shall be no introduction of any plant or wildlife which is not indigenous to the City into any stream or buffer unless authorized by a State or Federal permit or approval;

(54) Surface water discharge to a stream buffer from a stormwater management facility may be allowed if there are no significant adverse impacts to the stream or required buffer and the discharge is in compliance with the stormwater manuals adopted in Chapter 13.25 CMC and in accordance with CMC 18.65.050;

(65) New Stream Crossings. New stream crossings will be reviewed and decided upon using the Type 2 decision process in CMC Title 14. Responses to decisional critical and design requirements in this section shall be included in the critical areas report. Stream crossings may be allowed and may encroach on the otherwise required stream buffer if:

(a) Any new crossing over a stream shall be generally perpendicular to the critical area and shall be accomplished by bridging or other technique designed to minimize critical area disturbance. It shall also be the minimum width necessary to accommodate the intended function or objective;

(b) Culverts and bridges are designed and installed consistent with an approved permit from the applicable State and Federal agencies with review authority;

(c) All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to salmonids;

(d) Crossings do not occur over salmonid spawning areas unless City determines that no other possible crossing site exists;

(e) Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water line;

(f) Crossings do not diminish the flood-carrying capacity of the stream;

(g) Utility lines and facilities may be permitted to cross streams if they are laterally drilled and located at a depth beneath the scour depth for the water body predicted by a civil engineer licensed by the State of Washington, or as directed by State or Federal permitting agencies. Temporary bore pits to perform such crossings may be permitted within the stream buffer established in CMC 18.65.360;

(h) Crossings are minimized and serve multiple purposes and properties whenever possible;

(i) Disturbances to the stream buffer are adequately compensated by a stream buffer enhancement plan; and

(j) No reasonable alternative exists to access the subject property;

(76) Stream Relocations. Stream relocations may be allowed only for:

(a) As part of a public road project for which a public agency and utility exception is granted pursuant to CMC 18.65.070; and

(b) The purpose of enhancing and restoring resources in the stream if:

(i) Appropriate floodplain protection measures are used; and

(ii) The relocation occurs on the site, except that relocation off the site may be allowed if the applicant demonstrates that any on-site relocation is impracticable, the applicant provides all necessary easements and waivers from affected property owners and the off-site location is in the same drainage sub-basin as the original stream;

(c) As part of any request under this section, the applicant must submit a stream relocation plan that has been reviewed and approved by Washington Department of Fish and Wildlife with the critical areas report that shows the following:

- (i) The creation of a natural meander pattern;
- (ii) The formation of gentle side slopes, at least two feet horizontally to one foot vertically, and the installation of erosion control features for stream side slopes;
- (iii) The creation of a narrow sub-channel, where feasible, against the south or west bank;
- (iv) The utilization of natural materials, wherever possible;
- (v) The use of vegetation normally associated with streams, including primarily native riparian vegetation;
- (vi) The creation of spawning and nesting areas, wherever appropriate;
- (vii) The re-establishment of the fish population, wherever feasible;
- (viii) The restoration of water flow characteristics compatible with fish habitat areas, wherever feasible;
- (ix) The filling and revegetation of the prior channel; and
- (x) A proposed phasing plan specifying time of year for all project phases;

(d) For any relocation allowed by this section, the applicant shall demonstrate, based on information provided by a civil engineer and a qualified biologist, and included in the critical area report that:

- (i) The equivalent base flood storage volume and function will be maintained;
- (ii) There will be no adverse impact to local ground water;
- (iii) There will be no increase in velocity;
- (iv) There will be no interbasin transfer of water;
- (v) There will be no increase in sediment load;
- (vi) Requirements set out in the mitigation plan are met;
- (vii) The relocation conforms to other applicable laws; and
- (viii) All work will be carried out under the direct supervision of a qualified biologist;

(e) The City will allow a stream to be relocated only if water quality, habitat and stormwater retention capability of the streams will be the equivalent or improved by the relocation. Convenience to the applicant in order to facilitate general site design shall not be considered;

(f) Prior to diverting water into the new channel, a qualified professional shall inspect the new channel following its completion and issue a written report to the Director stating that the channel complies with the requirements of this section;

(87) A stream channel may be stabilized if:

(a) Movement of the stream channel threatens existing residential or commercial structures, public facilities or improvements, unique natural resources or the only existing access to property; and

(b) The stabilization is done in compliance with the requirements of Chapter 16.15 CMC and administrative rules promulgated pursuant to this chapter;

(98) Stream enhancement not associated with any other development proposal may be allowed if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by a civil engineer, a landscape architect or a qualified biologist and carried out under the direction of a qualified biologist or landscape architect;

(409) A minor stream restoration project for fish habitat enhancement may be allowed if:

- (a) The restoration is sponsored by a public agency with a mandate to do such work;
- (b) The restoration is unassociated with mitigation of a specific development proposal;
- (c) The restoration is limited to placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements;
- (d) The restoration only involves the use of hand labor and light equipment; or the use of helicopters and cranes which deliver supplies to the project site; provided, that they have no contact with sensitive areas or their buffers; and
- (e) The restoration is performed under the direction of a qualified biologist or landscape architect; and

(410) Roadside drainage ditches which carry streams with salmonids may be maintained through the use of best management practices developed in consultation with relevant City, County, State and Federal agencies. (Ord. 06-17 § 4 (Exh. B))

**18.65.375 Streams – Removal from culverts and pipes.**

If development of the subject property requires City approval, the City may require the stream to be taken out of the culvert and pipes, and restored to a natural-like configuration as part of the City's approval of development of the subject property. (Ord. 06-17 § 4 (Exh. B))

**18.65.380 Streams – Specific mitigation requirements.**

In addition to the requirements in CMC 18.65.130, the following applies to mitigation to compensate for the adverse impacts associated with an alteration to a stream or stream buffer ~~not located in the shoreline jurisdiction~~:

(1) Mitigation measures shall be addressed in the critical area report and must achieve equivalent or greater stream functions including, but not limited to:

- (a) Habitat complexity, connectivity and other biological functions;
- (b) Seasonal hydrological dynamics, water storage capacity and water quality; and
- (c) Geomorphic and habitat processes and functions;

(2) To the maximum extent practical, permanent alterations that require restoration or enhancement of the altered stream, stream buffer or another stream or stream buffer must consider the following design factors, as applicable to the function being mitigated:

- (a) The natural channel or shoreline reach dimensions including its depth, width, length and gradient;
- (b) The horizontal alignment and sinuosity;
- (c) The channel bed or lake bottom with identical or similar substrate and similar erosion and sediment transport dynamics;
- (d) Bank and buffer configuration and erosion and sedimentation rates;



- (e) Similar vegetation species, diversity, size and densities in the channel or lake bottom and on the riparian bank or buffer; and
  - (f) Include all conditions in State and Federal permits or approvals;
- (3) Mitigation to compensate for adverse impacts shall meet the following standards:
- (a) Not upstream of a barrier to fish passage;
  - (b) Is equal or greater in biological function; and
  - (c) To the maximum extent practical is located on the site of the alteration or within one-half mile of the site and in the same stream reach at a 1:1 ratio for the length of mitigation to area of alteration; or
  - (d) Is located in the same stream drainage sub-basin and attains the following ratios of area of functional mitigation to area of alteration:
    - (i) A 3:1 ratio for a Type S stream;
    - (ii) A 3:1 ratio for a Type F stream; and
    - (iii) A 2:1 ratio for a Type Np or Ns stream;
- (4) For purposes of subsection (3) of this section, a mitigation measure is in the same stream reach if the length of stream bank meets the following criteria:
- (a) Similar geomorphic conditions including slope, soil, aspect and substrate;
  - (b) Similar processes including erosion and transport of sediment and woody debris;
  - (c) Equivalent or better biological conditions including invertebrates, fish, wildlife and vegetation; and
  - (d) Equivalent or better biological functions including mating, reproduction, rearing, migration and refuge; or
  - (e) For tributary streams, a distance of no more than one-half mile;
- (5) The City may reduce the mitigation ratios in subsection (3) of this section to 2:1 for Type S or F streams and 1.5:1 for Type Np or Ns streams if the applicant provides a scientifically rigorous mitigation monitoring program that includes the following elements:
- (a) Monitoring methods that ensure the mitigation meets the approved performance standards identified by the Director;
  - (b) Financial guarantees for the duration of the monitoring program; and
  - (c) Experienced, qualified staff to perform the monitoring;
- (6) For rectifying an illegal alteration to any type of stream or its buffer, mitigation measures must meet the following standards:
- (a) Located on the site of the illegal alteration at a 1:1 ratio of area of mitigation to area of alteration; and
  - (b) To the maximum extent practical, replicates the natural pre-alteration configuration at its natural pre-alteration location including the factors in subsection (2) of this section;
- (7) The City may modify the requirements in this section if the applicant demonstrates that, with respect to each stream function, greater functions can be obtained in the affected hydrologic unit that the Director may determine to be the drainage sub-basin through alternative mitigation measures. (Ord. 06-17 § 4 (Exh. B))

**18.65.385 Naturally occurring ponds, less than 20 acres in area, and their submerged aquatic beds that provide fish or wildlife habitat.**

(1) No development may take place within naturally occurring ponds or within buffer areas from the naturally occurring ponds except as allowed in this chapter.

(2) Naturally occurring ponds may also be considered wetlands based on CMC 18.65.319. If the naturally occurring pond is deemed a wetland then the applicable wetland buffer, based on the wetland category, shall apply. A determination by the City does not preclude the applicant from meeting State and Federal agency determinations and permitting requirements. (Ord. 06-17 § 4 (Exh. B))

**18.65.390 Other fish and wildlife habitat conservation areas – Development standards.**

The following standards apply to development proposals and alterations on sites containing fish and wildlife habitat conservation areas, in accordance with the wildlife management plan developed by the Washington State Department of Fish and Wildlife for such species. Where the habitat does not include any other critical area or critical area buffer, compliance with the wildlife management plan shall constitute compliance with this chapter.

The Director shall require protection of an active breeding site of any species with habitat that is identified as requiring protection; provided, that the Washington State Department of Fish and Wildlife has adopted management recommendations. The City shall follow those adopted management recommendations that are published in Priority Habitats and Species Program Management Recommendations for Region IV, current edition. If management recommendations have not been adopted, the City shall base protection administrative rules and any decisions on best available science as presented in a qualified professional's report prepared by applicant, at applicant expense.

(1) General Requirements. Habitat conservation areas ~~that are associated with a shoreline shall be governed by the requirements of the City's SMP. Other habitat conservation areas are~~ subject to the following provisions:

(a) The Department shall require the establishment of buffer areas for development activities in, or adjacent to, habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation, or areas identified for restoration, established to protect the integrity and functions of the habitat. Required buffer widths shall consider the management recommendations identified in this section and reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Development activities may be further restricted and buffers may be increased during the specified season;

(b) Where applicable, a fish and wildlife habitat corridor shall be established as required in CMC 18.65.350;

(c) A habitat conservation area may be altered only if the proposed alteration of the habitat or the mitigation proposed does not reduce the quantitative and qualitative functions and values of the habitat, except in accordance with this chapter;

(d) Removal of any native vegetation or woody debris from the habitat conservation area may be allowed only as part of an approved habitat management plan, critical areas report, and/or alteration plan;

(e) Low impact uses and development activities which are consistent with the purpose and function of the habitat conservation area and do not detract from its integrity may be permitted within the conservation area depending on the sensitivity of the habitat area. Examples of uses and development activities which may be permitted in appropriate cases include trails that are pervious, viewing platforms, stormwater management facilities such as grass-lined swales, utility easements and other similar uses and development activities; provided, that any impacts to the habitat resulting from such permitted facilities shall be fully mitigated;

(f) Whenever development activities are proposed in or adjacent to a habitat conservation area with which State or Federally endangered or threatened species have a primary association, such area shall be protected through the application of measures in accordance with a critical areas report prepared by a qualified professional with guidance provided by the appropriate State and/or Federal agencies;

(g) Plant, wildlife, or fish species not indigenous to the coastal region of the Pacific Northwest shall not be introduced into habitat conservation areas unless authorized by this chapter and by any required State or Federal permit or approval;

(h) Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical areas report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed;

(i) The Director shall condition approvals of development activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary, to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

(i) Establishment of buffer zones;

(ii) Preservation of critically important vegetation;

(iii) Limitation of public access to the habitat area, including fencing to deter unauthorized access;

(iv) Seasonal restriction of development activities;

(v) Establishment of a duration and timetable for periodic review of mitigation activities; and

(vi) Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation; and

(j) Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic functions, and shall include mitigation for adverse impacts from the proposed development as appropriate. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per-function basis. (Ord. 06-17 § 4 (Exh. B))

**18.65.395 Fish and wildlife habitat corridors and networks.**

On development proposal sites that contain Type F or Np streams and/or wetlands with a high habitat score greater than or equal to seven, that are also located within 200 feet of an on-site or off-site Type F or Np stream and/or wetland with a high habitat score greater than or equal to seven, a fish and wildlife habitat corridor shall be set aside and protected as follows:

(1) New development proposals, subdivisions, short subdivisions, commercial site plans, and binding site plans shall place the corridor in a contiguous permanent critical area tract with all developable lots sited on the remaining portion of the project site.

(2) The fish and wildlife habitat corridor shall be sited on the development in order to meet the following conditions, where feasible:

(a) Forms one contiguous tract that connects on-site high value habitat areas to other on-site or off-site high value habitat areas;

(b) New development proposals shall provide a minimum fish and wildlife habitat corridor width of 300 feet or a corridor width that is consistent with an approved habitat management plan. The corridor width should not be less than 150 feet wide at any point;

(c) New development proposals on sites constrained by a fish and wildlife habitat corridor and where development already exists shall maintain a minimum fish and wildlife habitat corridor width of 300 feet unless, through an approved habitat management plan, it can be shown that a lesser habitat corridor width supports and maintains the corridor's function and value;

- (d) Be contiguous with and include and/or connect critical areas, buffers, wildlife habitat corridors, native growth protection easements, and open space tracts or wooded areas on site or on adjacent properties, if present; and
- (e) The Director may modify corridor widths based on supporting documentation from an approved habitat management plan.
- (3) Fish and wildlife habitat corridors do not parallel Type Np streams, except as required to provide a connection between two features as described above.
- (4) A management plan for the wildlife corridor contained within a tract or tracts shall be prepared that specifies the permissible extent of recreation, forestry or other uses compatible with preserving and enhancing the wildlife habitat value of the tract or tracts. The management plan shall be reviewed and approved by the Department. The approved management plan for a development proposal shall be contained within and recorded on title or with the covenants, conditions and restrictions (CCRs). If the wildlife corridor is contained in a conservation easement, a management plan is not required, but may be submitted to the Department for review and approval and recorded with the conservation easement.
- (5) Clearing within the wildlife corridor contained in a tract or tracts shall be limited to that allowed by the management plan or as otherwise allowed by this chapter. No clearing, including the removal of woody debris, shall be allowed within a wildlife corridor contained within a conservation easement on individual lots, unless the property owner has an approved management plan.
- (6) Where feasible, a homeowners' association or other entity capable of long-term maintenance and operation shall be established to monitor and assure compliance with the management plan. The association shall provide homeowners with information on the Washington Department of Fish and Wildlife's backyard wildlife sanctuary program.
- (7) Low impact uses and activities which are consistent with the purpose and function of the habitat corridor and do not detract from its integrity may be permitted within the corridor depending on the sensitivity of the habitat area. Examples of uses and activities which may be permitted in appropriate cases include trails that are pervious, viewing platforms, stormwater management facilities such as grass-lined swales, utility easements and other similar uses, or activities otherwise described and approved by the Washington Department of Fish and Wildlife; provided, that any impacts to the corridor resulting from such permitted facilities shall be fully mitigated.
- (8) At the discretion of the Director, these standards may be waived or reduced for public facilities such as public schools, fire stations, public parks, and public road projects.
- (9) The wildlife corridor tract or easement shall be permanently marked and fenced consistent with the methods contained in CMC 18.65.160 and the City's Design and Construction Standards in effect at the time of application. (Ord. 06-17 § 4 (Exh. B))

**18.65.400 Fish and wildlife habitat conservation areas – Modification.**

Upon request of the applicant and based upon a site-specific critical areas report that includes, but is not limited to, an evaluation of the tolerance of the animals occupying the nest or rookery to the existing level of development in the vicinity of the nest or rookery, the Director may approve a reduction of the wildlife habitat conservation area or corridor for any species listed on the current version of the Washington Department of Fish and Wildlife Priority Habitat and Species List for Region IV, as amended. (Ord. 06-17 § 4 (Exh. B))

**18.65.405 Fish and wildlife habitat conservation areas – Mitigation standards.**

- (1) Relevant standards for other critical areas (such as wetlands and streams) that may be located within the fish and wildlife habitat conservation area, as determined by the City, shall be incorporated into mitigation plans.
- (2) The following additional mitigation measures shall be reflected in fish and wildlife habitat conservation area mitigation planning:
- (a) The maintenance and protection of habitat values shall be considered a priority in site planning and design;

- (b) Buildings and structures shall be located in a manner that preserves and minimizes adverse impacts to important habitat areas. This may include clustering buildings and locating fences outside of habitat areas;
- (c) Retained habitat shall be integrated into open space and landscaping;
- (d) Where possible, habitat and vegetated open space shall be consolidated in contiguous blocks;
- (e) Habitat shall be located contiguous to other habitat areas, open space or landscaped areas both on and off site to contribute to a continuous system or corridor that provides connections to adjacent habitat areas;
- (f) Native species shall be used in any landscaping of disturbed or undeveloped areas and in any enhancement of habitat or buffers;
- (g) The heterogeneity and structural diversity of vegetation shall be emphasized in landscaping; and
- (h) Significant trees, preferably in groups, shall be preserved, consistent with the requirements of Chapter 18.45 CMC. (Ord. 06-17 § 4 (Exh. B))

**18.65.410 Fish and wildlife habitat conservation areas – Additional provisions for critical areas report.**

In addition to the general critical areas report requirements of CMC 18.65.110, proposals to modify the performance standards for habitat for species of local importance must meet the requirements of this section.

(1) Habitat Assessment. A habitat assessment is an investigation of the site to evaluate the potential presence or absence of designated species of local importance or habitat for the species of local importance. A critical area report for habitat for species of local importance shall contain an assessment of habitats including the following site- and proposal-related information at a minimum:

- (a) Identification of any species of local importance including but not limited to endangered, threatened, sensitive or candidate species that has a primary association with habitat on or adjacent to the project area, and an assessment of potential project impacts to the species;
- (b) Detailed description of vegetation on and adjacent to the site;
- (c) A discussion of any Federal, State, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the site;
- (d) A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;
- (e) A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and coordination and efforts to restore any habitat that was degraded prior to the current proposed use or activity and to be conducted in accordance with the mitigation sequence set forth in CMC 18.65.120;
- (f) A discussion of ongoing management practices that will protect habitat after the site has been developed, including proposed monitoring, maintenance and adaptive management programs;
- (g) When appropriate due to the type of habitat or species present or the site conditions, the Director may also require the habitat management plan to include an evaluation by the Washington Department of Fish and Wildlife, local Native American Indian Tribe, or other qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate; and
- (h) When appropriate, information from the Washington Department of Fish and Wildlife's backyard wildlife sanctuary program shall be included. (Ord. 06-17 § 4 (Exh. B))

**18.65.420 Process to identify additional species and habitat of local importance.**

(1) Designation Process. Any person may nominate for designation, or propose de-designation, of a species or habitat of local importance in accordance with a Type IV permit process pursuant to CMC Title 14. Additional species and habitat of local importance may be designated pursuant to this section.

(2) Decision Criteria. A species may be designated a species of local importance only if it demonstrates the following characteristics:

- (a) Local populations of native species are in danger of extirpation based on existing trends:
  - (i) Local populations of native species that are likely to become endangered; or
  - (ii) Local populations of native species that are vulnerable or declining;
- (b) The species or habitat has recreational, commercial, cultural, tribal, or other special value;
- (c) Long-term persistence of a species is dependent on the protection of the species or habitat through the provisions of this chapter;
- (d) Protection by other County, State, or Federal polices, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the City; and
- (e) Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

(3) Nominations for habitats or species of local importance shall include the following:

- (a) Identification of the habitat or species being nominated. Identification shall include, at a minimum, the following information:
  - (i) A legible map or maps of species and/or habitat location(s);
  - (ii) Specific features to be protected (for example, nest sites, breeding areas, nurseries, vegetation communities) or, if a habitat is being nominated in its entirety, a description of the habitat, its structure, function, species, and geographic boundaries of the habitat(s) encompassed, and any other relevant attributes; and
  - (iii) An analysis of the habitat and hydrological functions and location of the area relative to already designated critical areas and the nearest similar habitat if known;
  - (iv) The Director has the authority to alter these requirements if he/she determines that alternative methods of identification or characterization are more accurate or reliable;
- (b) Proposed management strategies for the species or habitats. Management strategies must be supported by best available science;
- (c) Identification of effects on property ownership and use; and
- (d) The Director may, on a case-by-case basis, require additional information needed to evaluate the resource being nominated.

(4) Effect of Designation. Designation of a species and habitat of local importance under this section shall not impact projects or proposals with a vested application or approved permit. (Ord. 06-17 § 4 (Exh. B))

**18.65.430 Fish protection measures.**

(1) All activities, uses, and alterations proposed to be located in water bodies used by fish or in areas that affect such water bodies shall give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, the following standards:

- (a) Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife;
- (b) The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas; and
- (c) Any impacts to the functions or values of the habitat conservation area are mitigated in accordance with an approved critical area report.

(2) Structures that prevent the migration of fish shall not be allowed in the portion of water bodies currently or historically used by fish. Fish bypass facilities shall be provided that allow the upstream migration of adult fish and shall prevent fry and juveniles migrating downstream from being trapped or harmed. (Ord. 06-17 § 4 (Exh. B))

**18.65.440 Endangered, threatened, and sensitive species protection measures.**

- (1) No development shall be allowed within a habitat conservation area or buffer where State or Federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by Washington Department of Fish and Wildlife or applicable State or Federal agency.
- (2) Whenever activities are proposed adjacent to a habitat conservation area where State or Federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the City. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife and other appropriate Federal or State agencies. (Ord. 06-17 § 4 (Exh. B))

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<sup>1</sup> Code reviser's note: Ord. 06-17 adds this section as 18.65.360. It has been editorially renumbered to prevent duplication of numbering.

<sup>2</sup> ~~Covington's SMP (Ord. No. 05-11), as set forth in Chapter 16.05 CMC, should be consulted for any activities within the shoreline jurisdiction. In Covington, three areas have been designated as areas within a shoreline jurisdiction: Pipe Lake, the lower reaches of Jenkins Creek, and the lower reaches of Big Soos Creek. Critical area regulations for activities within the shoreline jurisdiction are located in Appendix A of the SMP.~~





## Definitions and Amendments in Other CMC Sections

### 18.10.050 Interpretation – General.

- (1) In case of inconsistency or conflict, regulations, conditions or procedural requirements that are specific to an individual land use shall supersede regulations, conditions or procedural requirements of general application.
- (2) A land use includes the necessary structures to support the use unless specifically prohibited or the context clearly indicates otherwise.
- (3) In case of any ambiguity, difference of meaning, or implication between the text and any heading, caption, or illustration, the text and the permitted use tables in Chapter [18.25](#) CMC shall control, except for uses within the downtown zoning area, where CMC [18.31.080](#) shall control and uses within Shoreline jurisdiction, where CMC [16.05.030](#) shall control. All applicable requirements shall govern a use whether or not they are cross-referenced in a text section or land use table.
- (4) Unless the context clearly indicates otherwise, words in the present tense shall include past and future tense, and words in the singular shall include the plural, or vice versa. Except for words and terms defined in this title, all words and terms used in this title shall have their customary meanings. (Ord. 10-10 § 3 (Exh. C); Ord. 42-02 § 2 (21A.02.060))

### 18.20.053 AKART.

“AKART” means all known, available, and reasonable methods of prevention, control and treatment. AKART represents the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution.

### 18.02.097 Berm.

“Berm” means a linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the line of ordinary high tide. Also, a linear mound used to screen an adjacent site, activity, or operation, such as a parking lot, from transmitting excess noise and glare. ~~means a mound or raised area used for the purpose of screening a site or operation.~~

### 18.20.195 Clearing.

“Clearing” means the limbing, pruning, trimming, tipping, cutting, or removal of vegetation or other organic plant matter by physical, mechanical, chemical or other means. This includes, but is not limited to, root removal and/or topsoil removal.

**18.20.495 Floodplain.**

“Floodplain” means the total area subject to inundation by the base flood. Synonymous with 100-year floodplain. The land area susceptible to being inundated by stream derived waters with a 1 percent chance of being equaled or exceeded in any given year. The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (WAC 173-22-030(2)).

**18.20.565 Grading.**

The physical manipulation of the earth's surface and/or drainage pattern in preparation for an intended use or activity. “Grading” means any excavation, filling, removing the duff layer or any combination thereof.

**18.20.638 In-stream structure.**

“In-stream structure” means anything placed or constructed by humans within a stream or river waterward of below the ordinary high water mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow line, including, but not limited to, weirs, culverts, fill and natural materials and excluding dikes, levees, revetments and other bank stabilization facilities.

**18.20.1349 Utilities, major or Utility facility, major**

“Utilities, major” or Utility facility, major” means utilities consisting of trunk lines or mains that serve neighborhoods, areas and cities. Examples include solid waste handling and disposal sites, water transmission lines, water storage facilities, sewage treatment facilities and mains, power generating or transmission facilities, gas storage and transmission facilities and stormwater mains and regional facilities. “Utility facility, major” means large scale facilities that serve a regional need, have major above-ground visual impacts and/or result in noise, odors, or other activities that are incompatible with residential and other less intensive uses. Such facilities may include sewage treatment plants, transfer stations, electrical substations, high voltage transmission lines, regional water storage tanks and reservoirs, storage yards and regional sewer collectors and interceptors. This definition does not include wireless communication facilities.

**18.20.1350 “Utilities, minor” or Utility facility, minor**

“Utilities, minor” or Utility facility, minor” means utilities consisting of small-scale distribution and collection facilities connected directly to development within the shoreline area. Examples include local power, telephone, cable, gas, water, sewer and stormwater service lines. “Utility facility, minor” means a small scale facility serving primarily local distribution needs within the City, including underground power lines, water distribution lines, sewer lift stations, and storm water conveyance pipes, fiber optic cable, pump stations and hydrants, switching boxes, and other structures normally found in a street right-of-way to serve adjacent properties.

# City of Covington Shoreline Master Program

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## Gap Analysis Report

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## Table of Contents

<b>1. Introduction .....</b>	<b>1</b>
<b>2. Consistency with Legislative Amendments .....</b>	<b>3</b>
<b>3. Consistency with Critical Areas Ordinance.....</b>	<b>7</b>
<b>4. Consistency with Other Development Regulations and Comprehensive Plan .....</b>	<b>12</b>
<b>5. Usability Recommendations.....</b>	<b>15</b>

## List of Tables

Table 1. Summary of gaps in consistency with legislative amendments, and associated mandatory and recommended SMP revisions.....	3
Table 2. Summary of gaps in consistency with Critical Areas Ordinance, and associated recommended SMP revisions.....	7
Table 3. Summary of recommended SMP, CMC, and Comprehensive Plan revisions to improve consistency. ....	12
Table 4. Summary of recommended SMP revisions to enhance usability. ....	15



## 1. Introduction

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In accordance with the Washington State Shoreline Management Act (SMA), local jurisdictions with shorelines of the state are required to conduct a periodic review of their Shoreline Master Programs (SMPs) (WAC 173-26-090). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, changes in local circumstances, and new or improved data and information.

The City of Covington (City) adopted its current SMP in April 2011 (Ordinance No. 05-11). Shorelines of the State in Covington include Big Soos Creek, Jenkins Creek, and Pipe Lake. The Covington SMP includes goals and policies, shoreline environment designations, and development regulations that guide the development and protection of these shorelines.

As a first step in the periodic review process, The Watershed Company (Watershed) reviewed the current SMP for consistency with legislative amendments made since its adoption. Watershed staff also reviewed the current SMP for consistency with the policies in the City's Comprehensive Plan, adopted in January 2016 (Ordinance No. 02-2016), and with the implementing development regulations in the Covington Municipal Code (CMC). Finally, as the periodic review process represents an opportunity to revise and improve the SMP, both City and Watershed staff reviewed the current SMP for overall usability.

The purpose of this gap analysis report is to provide a summary of the review and inform updates to the SMP. The report is organized into the following sections according to the content of the review:

- **Section 2** identifies gaps in consistency with legislative amendments. This analysis is based on a list of amendments between 2007 and 2017, as summarized by the Washington State Department of Ecology (Ecology) and provided to the City as a Periodic Review Checklist.
- **Section 3** identifies gaps in consistency with the City's Critical Areas Ordinance (CAO) (Chapter 18.65 CMC). The CAO was most recently updated in June 2017, and applies to critical areas outside of shoreline jurisdiction, while the SMP contains in Appendix A its own separate set of regulations that apply to critical areas within shoreline jurisdiction.
- **Section 4** identifies gaps in consistency with the City's Comprehensive Plan, and with implementing sections of the City's development regulations other than the CAO. Specifically, the review includes Titles 13, 14, 16, 17, and 18 (excluding Chapter 18.65) of the CMC.
- **Section 5** identifies issues of usability by both City staff and residents.

For each section, the report presents the topic, relevant section(s) in the SMP, a summary of the analysis (consistency or usability), and a recommendation for revisions to the SMP.





## 2. Consistency with Legislative Amendments

Table 1 summarizes mandatory and recommended revisions to the Covington SMP regulations based on the review of consistency with legislative amendments made since SMP adoption. Topics are organized broadly by SMP subject area. In general, mandatory changes to the SMP are minor in nature. The majority of them address revised rules with regard to SMP applicability, including updated exemption thresholds and definitions. Ecology has also developed new guidance on regulating nonconforming uses, structures, and development that could be of use to the City in clarifying the nonconformance regulations in its SMP, as well as recent modifications to wetland buffer guidance that could be applied to both shoreline and non-shoreline wetland regulations.

Table 1. Summary of gaps in consistency with legislative amendments, and associated mandatory and recommended SMP revisions.

No.	Topic (Amendment Year)	Relevant Section(s) in 2011 SMP	Consistency Review	Recommendation
<b>Applicability</b>				
1	Cost threshold for non-exempt substantial development updated (2017)	Chapter 2, Definitions	The SMP references the outdated \$5,718 cost threshold.	<b>Mandatory:</b> Revise definition of “substantial development” to refer to WAC definition, as adjusted by OFM every 5 years.
2	Definition of “development” updated to exclude dismantling or removing structures (2017)	Chapter 2, Definitions	The SMP does not clarify that removing structures does not constitute development.	<b>Mandatory:</b> Revise definition of “development.”
3	New rules clarify exceptions to local review under the SMA (2017)	Chapter 8, Administration: Regulation 4	The SMP refers to exemptions under WAC 173-27-040, but does not refer to exceptions under WAC 173-27-044 or -045.	<b>Mandatory:</b> Add reference to statutory exceptions. <b>Recommended:</b> Create a new “Applicability” section that clearly defines jurisdiction, including exemptions and exceptions.
4	Ecology clarified that the SMA does not apply to lands under exclusive federal jurisdiction (2017)	N/A	The SMP does not address federal lands.	<b>Recommended:</b> Within the new “Applicability” section described above, provide this clarification in case of

No.	Topic (Amendment Year)	Relevant Section(s) in 2011 SMP	Consistency Review	Recommendation
				questions about SMP applicability on federal (BPA) lands.
5	Retrofitting existing structures for ADA compliance is now exempt from shoreline permit requirements (2016)	Chapter 8, Administration: Regulation 4	The SMP refers to the list of exemptions provided in WAC 173-27-040.	<b>Recommended:</b> Clarify that improvements to existing structures for ADA compliance are not subject to nonconformance regulations.
6	Cost threshold for exempt replacement of docks on lakes and rivers increased to \$20,000 from \$10,000 (2014)	Chapter 7, Overwater Structures: Piers, Docks, Floats, and Buoys	Introductory text to Chapter 7 refers to the \$10,000 threshold.	<b>Mandatory:</b> Revise text to refer to WAC 173-27-040 and RCW.90.58.030(3)(e) for the list of exemptions.
7	Relief from SMP provisions may be provided where shoreline restoration projects shift the ordinary high water mark in a UGA (2009)	N/A	The SMP does not address this.	<b>Recommended:</b> Create a new codified section with development standards for shoreline restoration, including a reference to the new relief rule under WAC 173-27-215.
8	Comprehensively updated SMPs must include a list and map of streams and lakes that are in shoreline jurisdiction (2007)	Various	The SMP includes a map, and text in several sections lists jurisdictional waterbodies.	<b>Recommended:</b> Explicitly define shoreline jurisdiction and list shoreline waterbodies within the new "Applicability" section described above. Add reference to updated Official Shorelines Map in Comprehensive Plan for depiction of shoreline jurisdiction.
<b>General Use and Development Provisions</b>				
9	Updated wetlands critical areas guidance refers to the 2014 wetlands rating system (2016)	Appendix A, Critical Areas Regulations: 18.65.319	The SMP refers to the 2004 Ecology wetlands rating system.	<b>Mandatory:</b> Revise SMP wetlands regulations to refer to the 2014 wetlands rating system, including July

No.	Topic (Amendment Year)	Relevant Section(s) in 2011 SMP	Consistency Review	Recommendation
				2018 habitat score recommendations from Ecology.
10	Wetlands must be delineated in accordance with the approved federal wetland delineation manual (2011)	Appendix A, Critical Areas Regulations: 18.65.319	The SMP refers to the Washington State Wetland Identification and Delineation Manual (WDOE Publication #96-94).	<b>Mandatory:</b> Revise SMP wetlands regulations to refer to the approved federal wetland delineation manual and applicable regional supplements, per WAC 173-22-035.
11	Ecology adopted a rule for certifying wetland mitigation banks (2009)	Appendix A, Critical Areas Regulations	Use of wetland mitigation banks is allowed under Appendix A.	<b>Recommended:</b> Amend wording in SMP wetlands regulations to clarify that wetland mitigation banks must be certified.
<b>Nonconformance</b>				
12	Ecology clarified default provisions for nonconforming uses and development (2017)	Chapter 8, Administration; Chapter 2, Definitions	The SMP includes provisions for nonconforming uses and development in Chapter 8 and a definition of “nonconforming use or development” in Chapter 2 that makes reference to WAC 173-27-080.	<b>Recommended:</b> The revised WAC could provide ideas for clarifications or improvements to the existing provisions in SMP. Allow a legally constructed structure that is now nonconforming to today’s regulations to be considered a conforming structure. Expansion would require mitigation unless the expansion does not increase the level of nonconformity.
13	SMPs may classify legally established residential structures and appurtenant structures as conforming even if they do not meet dimensional or bulk standards. Redevelopment, expansion, and replacement consistent with the SMP would be allowed (2011)	Chapter 8, Administration	The SMP does not address this.	<b>Recommended:</b> Amend nonconformance regulations to address existing residential development.

The Watershed Company and BERK Consulting  
August 2018  
City of Covington Shoreline Master Program Gap Analysis

No.	Topic (Amendment Year)	Relevant Section(s) in 2011 SMP	Consistency Review	Recommendation
<b>Administration</b>				
14	Revised rules clarify permit filing procedures (2017)	Chapter 8, Administration	Regulation 12 (“Washington State Department of Ecology Review”) addresses submittal of conditional use and variance permits. The SMP does not address filing of substantial development permits.	<b>Mandatory:</b> Amend the “Permit Process” section within Chapter 8 to more comprehensively describe filing procedures by permit type, including reference to the appeal period.
15	New rule created an optional SMP amendment process that allows for a shared local/state public comment period (2017)	N/A	The SMP does not address the details of the SMP amendment process.	<b>Recommended:</b> Amend Chapter 14.27 Covington Municipal Code (CMC), Development Regulation and Zoning Map Amendments, to include reference to the new joint notice process for SMP amendments.
16	The Legislature added moratoria authority and procedures to the SMA (2009)	Chapter 8, Administration	The SMP does not address this.	<b>Recommended:</b> Address moratoria authority. Ecology has provided example language.

### 3. Consistency with Critical Areas Ordinance

Table 2 summarizes recommended revisions to the Covington SMP based on a review of consistency with the City’s Critical Areas Ordinance (CAO), codified in Chapter 18.65 CMC and adopted in June 2017. Topics are organized broadly by CAO subject area. Numerous minor inconsistencies exist between the way the CAO and SMP designate and protect critical areas. Many of these appear to be a result of the time difference between adoptions of the two documents. These inconsistencies could be addressed all together through direct adoption by reference in the SMP of the City’s 2017 CAO, with specific exceptions called out in the body of the SMP and Chapter 18.65 CMC.

Table 2. Summary of gaps in consistency with Critical Areas Ordinance, and associated recommended SMP revisions.

No.	Topic	Relevant Section(s) in 2011 SMP	Consistency Review	Recommendation
<b>General Issues</b>				
1	Linkage between SMP and CAO	Chapter 4, General Shoreline Policies and Regulations: Critical Areas; Appendix A, 18.65.020 Applicability	The SMP regulates critical areas in shoreline jurisdiction through Appendix A, and refers to this appendix in Chapter 4. Appendix A is a modified version of an older version of the City’s CAO than is now in effect. Embedded links in the document point to the current CAO. The result is several inconsistencies between the way critical areas are regulated inside and outside of shoreline jurisdiction, and a difficult collection of regulations for a user to navigate.	Adopt by reference the current CAO in order to bring the SMP’s critical areas regulations into alignment with those more recent regulations. Use SMP critical areas code section to clarify those sections of the CAO that do <i>not</i> apply in shoreline jurisdiction, and to provide alternative or supplemental regulations. Note these exceptions in CMC 18.65 as well.
2	Allowed alterations	Appendix A, XX.65.050	Table entries vary significantly between Appendix A and the CAO.	Review table and footnotes in both documents for consistency. Where inconsistencies/exceptions should remain between SMP and CAO, note them in both SMP and CAO.
<b>Frequently Flooded Areas</b>				
3	Reference to Flood Damage Prevention Ordinance	N/A	The CAO refers to CMC 16.15, Flood Damage Prevention, for designation and protection of frequently flooded areas. The SMP appears to	Revise the SMP to refer to CMC 16.15, and include supplemental (or replacement) provisions where necessary to ensure frequently

No.	Topic	Relevant Section(s) in 2011 SMP	Consistency Review	Recommendation
			<p>directly include a subset of provisions from that ordinance. It is not appropriate to wholly rely on CMC 16.15 for protection of frequently flooded areas in shoreline jurisdiction. However, the City's flood damage prevention ordinance is subject to different requirements, and changes to it will not be reflected in the SMP.</p>	<p>flooded areas within shoreline jurisdiction are adequately protected to maintain shoreline functions.</p>
4	Designation and classification	XX.65.230	<p>The CAO and SMP designate frequently flooded area components differently. Specifically, the CAO adopts 1998 FIRM, while the SMP mentions undated FIRM and City delineation, as well as adopted channel migration zone maps (2005 ordinance).</p>	<p>Should the City decide to adopt the current CAO by reference, the default designation of frequently flooded areas will come from the CAO. Review both designation approaches and determine which is most appropriate for use in the SMP. Avoid changes to 16.15 CMC.</p>
5	Protection	XX.65.240 - .275	<p>The CAO defines a Riparian Buffer Zone (RBZ) within the floodplain, including buffers off of waters of the state (and shorelines of the state). New structures, impervious surfaces, removal of native vegetation, grading, etc. are prohibited within the RBZ. Appendix A of the SMP does not include an RBZ or associated standards; however, shoreline buffers defined in the body of the SMP overlap in purpose and regulation with the RBZ.</p>	<p>Buffers on shorelines of the state should be regulated exclusively through the SMP. Adoption by reference of the current CAO, and clear provisions in the body of the SMP overwriting/amending RBZ provisions for Type S waters, would help clarify this overlap in regulation between SMP, CAO, and CMC 16.15 (flood regulations).</p>
<b>Geologically Hazardous Areas</b>				
6	Designation and classification	XX.65.220, .280, .310	<p>Designation criteria found in CMC 18.20.</p>	<p>Adopt by reference CMC 18.65. For ease of use, revise CMC 18.65 to specify designation criteria in body of code rather than just 18.20.</p>
7	Protection	XX.65.310	<p>Both the CAO and the SMP specify a default buffer from steep slopes of 50 feet in the</p>	<p>Revise SMP regulations to refer directly to CMC 18.65.</p>

No.	Topic	Relevant Section(s) in 2011 SMP	Consistency Review	Recommendation
			absence of a critical areas report. The CAO also specifies a minimum buffer of 15 feet in all cases, while the SMP does not. Additionally, the SMP does not specify additional critical area report requirements for geologically hazardous areas (CMC 18.65.300 in the CAO).	
<b>Critical Aquifer Recharge Areas</b>				
8	Designation and classification	XX.65.311	The SMP refers to an adopted map for designation of critical aquifer recharge areas, while the CAO allows for determination by the Director and refers to a map of “potential” critical aquifer recharge areas.	Revise CMC 18.65 to clearly define designation criteria for critical aquifer recharge areas and refer to recently updated CARA map included in Comprehensive Plan. Revise SMP regulations to refer directly to CMC 18.65.
9	Protection	XX.65.315	The CAO includes several protective provisions that are missing from the SMP, including requirements for use of AKART and stormwater manuals, and requirements for additional information for new development, including a hazmat inventory, spill response plan, and ground water monitoring plan/hydrogeologic study where applicable.	Revise SMP regulations to refer directly to CMC 18.65.
<b>Wetlands</b>				
10	Designation and classification	XX.65.319	Appendix A refers to the state manual for delineation of wetlands, and to the 2004 Ecology rating system for rating of wetlands. Consistent with best available science, the CAO refers to the federal manual and regional supplement for delineation, and to the 2014 Ecology rating system for rating.	Revise SMP regulations to refer directly to CMC 18.65. Review July 2018 Ecology guidance and incorporate as appropriate.

No.	Topic	Relevant Section(s) in 2011 SMP	Consistency Review	Recommendation
11	Protection	XX.65.320 - .350	<p>Several protective provisions in the SMP are inconsistent with the CAO and best available science:</p> <ul style="list-style-type: none"> <li>• Buffer widths refer to the 2004 rating system;</li> <li>• CAO includes buffer averaging provisions not found in the SMP; and</li> <li>• The exemption for isolated wetlands is not found in the CAO, and should not apply in shoreline jurisdiction.</li> </ul>	Review and determine where code provisions should be consistent. Where inconsistencies/exceptions should remain between SMP and CAO, note them in both SMP and CAO.
<b>Fish and Wildlife Habitat Conservation Areas</b>				
12	Designation and classification	XX.65.355	The SMP separates fish and wildlife habitat conservation area provisions into those that apply to aquatic areas and those that apply to wildlife habitat conservation areas. The CAO does not make this separation, but includes applicability, designation, and classification provisions for all fish and wildlife habitat conservation areas. The SMP does not include designation or classification provisions for wildlife habitat conservation areas. Finally, the SMP classifies aquatic areas according to the older S/F/N/O system, while the CAO adopts the permanent water typing system in WAC 222-16-030 (S/F/Np/Ns).	Review and determine where code provisions should be consistent. Where inconsistencies/exceptions should remain between SMP and CAO, note them in both SMP and CAO.
13	Protection	XX.65.356 - .385	<p>Several protective provisions in the SMP are inconsistent with the CAO and best available science:</p> <ul style="list-style-type: none"> <li>• Buffer averaging is allowed down to 60% in the CAO and 50 feet in the SMP (despite</li> </ul>	Review and determine where code provisions should be consistent. Where inconsistencies/exceptions should remain between SMP and CAO, note them in both SMP and CAO.



No.	Topic	Relevant Section(s) in 2011 SMP	Consistency Review	Recommendation
			<p>standard buffer widths of 25 feet on Type O waters);</p> <ul style="list-style-type: none"> <li>• The SMP includes provisions for stream crossings, stream relocations, and streambank stabilization. Where these apply to Type S waters, they should be revised (or potentially removed) to avoid conflict and/or redundancy with SMP provisions; and</li> <li>• The CAO includes provisions for fish protection and endangered species protection (e.g. CMC 18.65.440) absent from the SMP.</li> </ul>	

## 4. Consistency with Other Development Regulations and Comprehensive Plan

Table 3 summarizes recommended revisions to the Covington SMP based on a review of consistency with the Comprehensive Plan and the Covington Municipal Code (CMC). The CMC does not currently integrate the regulations of the SMP into its code. However, the code does apply some catch-all provisions that ensure that the City has the authority to apply the SMP regulations in its operations and permitting. For example, CMC 17.15.060, “Review for conformity with other plans and processes,” specifically applies the SMP to land divisions. CMC 18.10.030, “Conformity with this title required,” generally applies all City plans to the administration of land use. Nevertheless, there are areas of the code that could be strengthened to provide additional clarity and consistency, and areas of the SMP that could be revised to better align with the CMC. These are summarized in the table below.

Table 3. Summary of recommended SMP, CMC, and Comprehensive Plan revisions to improve consistency.

No.	Topic	Relevant Section(s) in 2011 SMP, CMC, or Comprehensive Plan	Consistency Review	Recommendation
1	Periodic Review Process	Shoreline Element of Comprehensive Plan	The Shoreline Element does not reflect the SMP periodic review process.	<ul style="list-style-type: none"> <li>• Add text in the introduction that refers to the periodic review.</li> <li>• Add information from recent permitting or other changes to conditions in the “Conditions and Trends” section.</li> <li>• Amend the environment map to reflect any changes in mapping of shoreline jurisdictions or environments if applicable.</li> <li>• Add SMP policies to this element in addition to the goals. This would make the Shoreline Element the home of the policy direction for the SMP, and the CMC the home of the regulations.</li> <li>• Incorporate updated CARA map.</li> </ul>

No.	Topic	Relevant Section(s) in 2011 SMP, CMC, or Comprehensive Plan	Consistency Review	Recommendation
2	Implementation	Chapter 4, General Shoreline Policies and Regulations: All Uses and Development; Shoreline Permit application packet	The SMP tasks the City with ensuring that the “no net loss” standard is enforced through permitting operations. However, the City has removed the specifics of application requirements and decision criteria from its code.	Update the Shoreline Permit packet to specifically address “no net loss.”
3	Internal code references to SMP	CMC 14.60, Clearing and Grading; CMC 18.45, Tree Preservation and Protection	These code chapters overlap with the SMP in terms of purpose and jurisdiction. While these code sections generally align with the provisions of the SMP, a reference to the SMP would help strengthen SMP application.	<p>Add provisions specific to shorelines and/or to the SMP to related code chapters. Relevant sections in which to add such provisions include “purpose” and “related codes and regulations,” or equivalent.</p> <p>For example, in 14.60.010:  <i>(1) This chapter is intended to regulate clearing, grading, and earthwork construction, including cuts and fills, within the City of Covington, in order to protect public health, safety, welfare, and aesthetics by:</i>            ...  <u><i>(i) Minimizing disturbance within shoreline environments to protect natural functions and processes and prevent or minimize the need for shoreline protection structures;</i></u></p>
4	Outdated code reference	Chapter 4, General Shoreline Policies and Regulations:	The SMP refers to CMC 18.60, which has been repealed.	Remove reference to outdated code, and replace with current code if applicable.

No.	Topic	Relevant Section(s) in 2011 SMP, CMC, or Comprehensive Plan	Consistency Review	Recommendation
		Vegetation Conservation; Chapter 7: Specific Shoreline Modification Policies and Regulations: Shoreline Stabilization		
5	Definitions	Chapter 2, Definitions	<p>Several definitions in the SMP are similar, but not the same as, definitions found in the CMC. Definition inconsistencies were found for the following terms:</p> <ul style="list-style-type: none"> <li>• CMC 16.15, Flood Damage Prevention: Floodway, structure, development</li> <li>• CMC 18.20, Technical Terms and Land Use Definitions (in zoning code): AKART, berm, BMP, clearing, dwelling unit, emergency, enhancement, erosion, floodplain, grading, habitat, in-stream structure, landfill, landscaping, marina, restoration, runoff, sign, stream, water-dependent use.</li> </ul>	Amend the definitions in one or both documents (SMP and CMC). Where definitions differ, focus on statutory requirements. Where changes are made to CMC 18.20, review for implications in non-SMP code sections.

## 5. Usability Recommendations

Table 4 summarizes recommended revisions to the Covington SMP based on a review of general usability of the document by both Watershed and City staff. Topics are organized broadly by SMP subject area. In general, revising the SMP to use a consistent regulatory-style numbering system would improve overall usability and facilitate codification. Certain types of development standards (e.g. Shoreline Vegetation) could benefit from added detail and clarity, while others (e.g. permitted uses and development) should be revised in several locations throughout the document to reduce redundancy and improve internal consistency.

Table 4. Summary of recommended SMP revisions to enhance usability.

No.	Topic	Relevant Section(s) in 2011 SMP	Usability Discussion	Recommendation
<b>Document-wide Issues</b>				
1	Text formatting	All	The SMP includes a large amount of text in prose format, usually preceding numbered policy and regulation sections. In many cases, these sections of prose contain information not otherwise addressed in the policy and regulation sections, and it is not clear whether the information is provided as background or should be treated as regulatory.	Move all text/information into a numbered, regulatory format, using one consistent format for each chapter. Remove repetitive language wherever possible.
2	Numbering	All	Each section restarts numbering of regulations (i.e. all start with "Regulation 1"). This makes referring to specific SMP sections confusing and cumbersome.	Employ a numbering system that uses a unique prefix for each section. Use Covington publishing guidance for codification structure.
3	Applicability	All	The SMP does not currently include a clear statement about its applicability, but instead defines shoreline jurisdiction in several locations (e.g. Introduction, Definitions).	Create a new "Applicability" section that clearly defines jurisdiction, including exemptions and exceptions. This section could then be referenced from specific use/development sections where specific exemptions apply to

No.	Topic	Relevant Section(s) in 2011 SMP	Usability Discussion	Recommendation
				those uses/developments (e.g. new residential piers).
<b>General Use and Development Provisions</b>				
4	Shoreline vegetation	Chapter 4, General Shoreline Policies and Regulations: Vegetation Conservation (Clearing and Grading)	Existing policies discourage extensive lawn areas and Regulation 10 requires that “native plants shall be preferred” for revegetation. New lawn areas within shoreline buffers should not qualify as revegetation and should not be permitted.	Clarify regulations in this section to prohibit new lawn areas within shoreline buffers, and more clearly define when planting with native vegetation in shoreline buffers shall be required.
5	Water quality	Chapter 4, General Shoreline Policies and Regulations: Water Quality, Stormwater, and Non-Point Pollution	Pesticide and herbicide usage on lawns is addressed indirectly in Policy 11. However, none of the subsequent regulations in this section work to specifically implement this policy.	Add a regulation prohibiting the use of pesticides, herbicides, and fertilizers for lawns within shoreline buffers.
<b>Specific Use and Development Standards</b>				
6	Definitions	Chapter 2, Definitions	The SMP includes development standards for specific types of shoreline uses and development without providing definitions (e.g. “multi-use trail,” “minor trail,” “qualified professional”). Where terms are used to apply specific requirements, a clear description – either in-line with the requirements, or in Chapter 2 – should be provided.	Review the SMP for terms in need of additional clarification/definition and revise accordingly, including removal of definitions not used in the SMP. Amend definitions section to state, “Certain words and phrases used in this chapter, unless otherwise clearly indicated by their context, mean as follows. Unless otherwise defined below, the definitions in Chapter 18.20 CMC apply. If there is a conflict, the definitions in this section shall govern.”

No.	Topic	Relevant Section(s) in 2011 SMP	Usability Discussion	Recommendation
7	Permitted Uses and Development	Chapter 5, Shoreline Environments and Chapter 6, Specific Shoreline Use Policies and Regulations	Chapter 5 lists permitted, conditionally permitted, and prohibited uses within each Shoreline Environment. This information is redundant with the information provided in Table 1: Shoreline Uses in Chapter 6. Additionally, the list of uses in Table 1 is not consistent with the subsequent shoreline use regulation sections.	Review all three sections for consistency with each other, and remove all "Shoreline Use" regulation sections from Chapter 5.
8	Primary vs. accessory uses and structures	Chapter 6, Specific Shoreline Use Policies and Regulations	The SMP addresses certain types of accessory uses (e.g. utilities, parking, water-dependent development) in several locations throughout Chapter 6. Where they are addressed, in many cases primary vs. accessory uses are regulated differently, but the SMP does not include provisions for all potential types of accessory uses or structures.	Create a set of general provisions that define how accessory uses are regulated (e.g. according to the primary use). Review Table 1 for consistency in treatment of primary vs. accessory uses.
<b>Nonconformance</b>				
9	Nonconforming uses, structures, and development	Chapter 8, Administration: Nonconforming Use and Development Standards	This section provides a definition for "nonconforming use or development" but does not clarify the difference between a nonconforming use, development, and structure and associated regulations.	Revise this section according to new rules and definitions developed by Ecology (see #12 in Table 1, Section 2 of this gap analysis).
<b>Administration</b>				
10	Required permit types	Chapter 8, Administration	This Chapter provides information on variances and conditional use permits, but does not clarify their relationship to substantial development permits and exemptions.	Revise the "Shoreline Permits and Exemptions" and "Permit Process" sections within this chapter to more clearly relate to each other. Reorganize to move the "Variances" and "Conditional Use Permits" subsections out of the "Permit Process" section.

The Watershed Company and BERK Consulting  
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