CITY OF SELAH

SHORELINE MASTER PROGRAM

Adopted by the City of Selah City Council by Ordinance _____ and Ordinance _____
on December __, 2021
Approved by the Washington State Department of Ecology and effective _____2021

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SHORELINE MASTER PROGRAM GOALS AND POLICIES

CITY OF SELAH 2017 COMPREHENSIVE PLAN - Natural Systems Element

SHORELINE MASTER PROGRAM REGULATIONS

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16.01.01 Title and Authority.

(1) The City of Selah Shoreline Master Program is established pursuant to RCW 36.70A.060 (Growth Management Act, Natural resource lands and critical areas – Development regulations), RCW Chapter 90.58 (Shoreline Management Act), RCW Chapter 43.21C (State Environmental Policy Act), and federal requirements for eligibility in the National Flood Insurance Program, pursuant to the Code of Federal Regulations (CFR). This title shall be known as the "Shoreline Master Program of the City of Selah, Washington."

(2) The Shoreline Master Program of the City of Selah shall, for the purposes of RCW 36.70A.480 (GMA, Shorelines of the State) be considered a supplement to the City of Selah Comprehensive Plan. The Shoreline Master Program Regulations shall, for the purposes of 36.70A.480 (GMA, Shorelines of the State) be considered a set of use regulations applying only to shoreline areas as specified in RCW 90.58 (SMA) and WAC 173-26 (SMP Guidelines). These regulations are intended to be substantive legal rules and procedures used to implement the goals and policies of the Master Program. These regulations shall be applied and interpreted in a manner consistent with the remainder of the Master Program or the Act.

16.01.02 Language Interpretation.

Unless specifically defined in Chapter 16.02, words, phrases and terms in this title shall be interpreted so as to give them the meaning they have in common usage and to give this title its most reasonable application. "Shall" is mandatory; "may" is discretionary and does not impose a requirement; "should" is always advisory; "include(s)" means includes but not limited to. When not inconsistent with the context, words used in the present tense include the future; the singular includes the plural; and the plural, the singular.

16.01.03 Purpose of Title.

The purpose of the Shoreline Master Program is to establish a single, uniform system of procedures and standards to be applied to development within Shoreline jurisdiction of the City of Selah.

16.01.04 Intent of Title.

(1) The Shoreline Master Program establishes goals, policies, standards, and regulations pertaining to projects, uses and development within Shoreline jurisdiction, development within critical areas or other areas under Shoreline jurisdiction as provided in the Shoreline Management Act (RCW 90.58) and the Growth Management Act (RCW 36.70A), and development regulated under the National Flood Insurance Program. The policies, standards and procedures of this title are intended to:

(a) Preserve development options within designated critical areas where such development will not adversely impact critical area values and functions;

(b) Prevent further degradation of critical areas;

(c) Conserve, protect and, where feasible, restore essential or important natural resources;

(d) Protect the public health, safety and general welfare;

(e) Further the goals and objectives of the City of Selah Comprehensive Plan and all of its elements;

(f) Implement the goals and requirements of the Washington Growth Management Act (RCW Chapter 36.70A) as it applies to shoreline jurisdiction, the Shoreline Management Act (RCW Chapter 90.58), and the National Flood Insurance Program;

(g) Recognize and protect private property rights;

(h) Provide development options for landowners of all existing lots to the greatest extent possible, through the establishment of variance, reasonable use provisions and non-conforming use and facility provisions;

(i) Manage for no net loss of ecological function within Shoreline jurisdiction, to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life;

(j) Establish a consistent foundation of regulations that apply to similar issues whether they are inside or outside shoreline jurisdiction. Additional protection measures required as a result of Shoreline Master Program updates to this title are identified as applying within shoreline jurisdiction and are not intended to be applied outside shoreline jurisdiction;

(k) Recognize that mining is a unique use as a result of its inherent linkage to geology. Therefore, mining and related activities may be an appropriate use when conducted consistent with the policies and provisions of WAC 173-26-241(h), within all shoreline designations, except the natural and floodway/CMZ environments.

(2) In addition, the policies, standards and procedures of this title:

(a) Are not intended to regulate the operation and maintenance of existing, legally established uses and structures, including but not limited to vegetative buffers on existing uses that have been reduced in width prior to the effective dates of provisions in the City of Selah Critical Areas Ordinance (SMC Title 11.50) or Shoreline Master Program;

(b) Are not intended to result in an unconstitutional taking of private property;

(c) Are not intended to retroactively require the restoration of degraded critical areas for properties in a degraded condition prior to the effective dates of provisions in the Critical Areas Ordinance (SMC Title 11.50) or Shoreline Master Program; but rather to use compensatory mitigation as a tool to mitigate impacts of new development;

(d) Are not intended to presume that regulatory tools are the only mechanism for protection, but rather integrated with nonregulatory tools in as balanced a manner as possible;

(e) Are not intended to prohibit the use of valid water rights.

16.01.05 Applicability.

(1) The provisions of this title shall apply to any new development, construction or use within the City of Selah's municipal boundaries, designated as a critical area inside shoreline jurisdiction, designated as shoreline jurisdiction and designated as a special flood hazard area under the National Flood Insurance Program. Those shorelines within the City of Selah and its Urban Growth Area which have been inventoried and found to meet the criteria as a shoreline of the state are as follows:

a. Streams, Rivers and Floodplains

i. Naches River

ii. Yakima River

(2) Other rules and regulations, including the City of Selah Municipal Codes (SMC Title 10 Zoning and Title 11 Building Codes), shall remain in full force and effect as they apply to a designated critical area or shoreline. Wherever the requirements of the Shoreline Master Program conflict with the requirements of the applicable Zoning Ordinance, the Subdivision Ordinance or any other lawfully adopted City rules or regulations, the most restrictive standards shall govern.

(3) The City of Selah Critical Areas Ordinance (CAO), Chapter 11.50 SMC (Ordinance No. XXXX, dated XXXX, 202X), is incorporated herein by this reference into this Shoreline Master Program, except as noted below. All references to the Critical Areas Ordinance, SMC 11.50, are for this specific version.

(a) If the provisions of Chapter 11.50 SMC and other parts of the Shoreline Master Program conflict, the provisions most protective of the ecological resource shall apply, as determined by the City.

(b) Provisions of Chapter 11.50 SMC that are not consistent with the SMA (RCW 90.58) shall not apply in shoreline jurisdiction. Specifically, the following subsections shall not apply in shoreline jurisdiction:

(i) 11.50.50, Exemptions and nonconforming uses;(ii) 11.50.60, Exceptions;

(iii) 11.50.090, Appeals; and

(iv) 11.50.100, Enforcement.

16.01.06 Applicability of Permit System to Federal Agencies.

The permit system shall be applied in the following manner to federal agencies on lands within shoreline jurisdiction:

(1) Areas and uses in those areas that are under exclusive federal jurisdiction as established through federal or state statutes are not subject to the jurisdiction of this title or chapter 90.58 RCW. Federal agencies shall not be required to obtain permits for developments undertaken by the federal government on lands owned in fee by the federal government, or on easements obtained by the federal government for a specified purpose where the proposed development is consistent with the specified purpose, unless under either circumstance the federal government grants or reserves to the state or City of Selah substantial jurisdiction over activities on those lands;

(2) The permit system shall apply to all nonfederal developments and uses undertaken on federal lands and on lands subject to nonfederal ownership, lease or easement, even though such lands may fall within the external boundaries of a federal ownership;

(3) The permit system shall apply to developments undertaken on lands not federally owned but under lease, easement, license, or other similar federal property rights short of fee ownership, to the federal government;

(4) The above paragraphs shall be controlling for the purposes of shoreline permits for federal land or federal projects; however the following attempts to clarify these limits for practical use:

(a) Federal development on federally owned land is not required to obtain a permit;

(b) Federal development on a federally owned lease is not required to obtain a permit, as long as the development is consistent with the purpose of the lease;

(c) Development on federally owned land under a nonfederal lease or easement must obtain a shoreline permit;

(d) Nonfederal development or use on federally owned land must obtain a shoreline permit;

(e) Development on nonfederal land must obtain a shoreline permit, even if it is leased, rented, etc., to the federal government, or it is within the boundaries of federal ownership.

16.01.07 Administrative Authority.

(1) The City of Selah Planning Department shall be responsible for the general administration. The Planning Director or Director's designee shall serve as the shoreline administrator. The administrative official shall establish procedures for implementation of this title.

(a) Where the provisions of these regulations may be unclear in special circumstances, or where judgment must be made because of the nature of the language used, the administrative official shall make such interpretations. Such interpretation shall specify whether the issue is under shoreline jurisdiction or not. A separate record of all interpretations shall be kept. To avoid arbitrariness, any earlier interpretation that may relate to a pending action shall be examined by the administrative official for its effect or influence on the pending action.

(b) A written request for interpretation of any provision of this title, or any rule or regulation adopted pursuant to this title, may be submitted to the administrative official. Each request shall set forth the specific provision or provisions to be interpreted and the facts of the specific situation giving rise to the request for an interpretation. Interpretations shall be administrated in accordance with SMC Section 21.01.030 and 21.03.020.

(c) The City shall consult with the Department of Ecology (Ecology) to ensure that any formal written interpretations are consistent with the purpose and intent of the SMA (RCW 90.58), pursuant to WAC 173-26-140.

16.01.08 Severability.

If any provision of the ordinance codified in this title, or its application to any person or legal entity or circumstances, is held to be invalid, the remainder of said ordinance or the application of the provision to other persons or legal entities or circumstances shall not be affected.

16.01.09 Effective Date

The effective of this Shoreline Master Program, and any future amendments therein, is 14 days from Ecology's written notice of final action.

Chapter 16.02 - DEFINITIONS

16.02.001 Definitions Generally.

(1) Whenever the words and terms set forth in this chapter appear in this title, they shall be given the meaning attributed to them by this chapter. References to specific provisions of SMC and the International Building Codes, statutes and Washington Administrative Code provide greater detail for purposes of administering this title.

16.02.005 Abutting.

"Abutting" means bordering upon, to touch upon, or in physical contact with. Sites are considered abutting even though the area of contact may be only a point.

16.02.010 Adjacent.

"Adjacent" means to be nearby and not necessarily abutting.

16.02.012 Administrative official.

"Administrative Official" means the duly appointed Director of the Planning Department, or his designee, or the relevant decision maker identified in the Selah Municipal Code; synonymous with "administrator" or "director."

16.02.015 Agricultural Activities.

For purposes of administering the Shoreline Master Program, "agricultural activities" means agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities; provided, that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation. Agricultural activities include plowing, discing, harrowing, compacting, planting, and harvesting, spraying, etc.;

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

(2) "Agricultural equipment" and "agricultural facilities" includes, but is not limited to: (a) The following used in agricultural operations: equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains; (b) corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; (c) farm residences and associated equipment, lands, and facilities; and (d) roadside stands and on-farm markets for marketing fruit or vegetables; and

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

16.02.025 Alluvial Fan.

"Alluvial fan" is a low, outspread, relatively flat to gently sloping feature, shaped like an open fan or a segment of a cone, deposited by a stream at the place where it issues from a valley upon a plain or broad valley, or where a tributary stream is near or at its junction with the main stream, or wherever a constriction in a valley abruptly ceases or the gradient of the stream suddenly decreases; it is steepest near the mouth of the valley where its apex points upstream, and it slopes gently and convexly outward with gradually decreasing gradient.

16.02.030 Applicant.

"Applicant" means a person, party, firm, corporation, or other legal entity that proposes a development, construction or use on a site.

16.02.033 Aquaculture.

For purposes of administering the Shoreline Master Program, "aquaculture" means the culture and/or farming of food fish, shellfish, and other aquatic plants and animals in fresh water. Aquaculture practices may include but are not limited to hatching, seeding or planting, cultivating, feeding, raising, harvesting of planted crops or of natural crops so as to maintain an optimum yield, and processing of aquatic plants or animals.

16.02.035 Aquifer.

"Aquifer" means a saturated geologic formation which will yield a sufficient quantity of water to serve as a private or public water supply.

16.02.040 Critical Aquifer Recharge Area.

"Critical aquifer recharge area" means an area with a critical recharging effect on aquifers used for potable water, or areas where a drinking aquifer is vulnerable to contamination that would affect the potability of the water.

16.02.042 Bank.

"Bank" means the land surface above the ordinary high water mark that abuts a body of water and contains it to the bankfull depth.

16.02.043 Bankfull Depth.

"Bankfull depth" means the average vertical distance between the channel bed and the estimated water surface elevation required to completely fill the channel to a point above which water would enter the floodplain or intersect a terrace or hill slope. In cases where multiple channels exist, the bankfull depth is the average depth of all channels along the cross-section.

16.02.044 Base Flood.

"Base flood" for purposes of administering Chapters 16.05.20 through 16.05.72 means the flood having a 1-percent chance of being equaled or exceeded in any given year. (Ref. IBC 1612.2)

16.02.045 Base Flood Elevation.

"Base flood elevation" for purposes of administering Chapters 16.05.20 through 16.05.72 means the elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). (Ref. IBC 1612.2)

16.02.046 Basement.

"Basement" for purposes of administering Chapters 16.05.20 through 16.05.72 means any area of the building having its floor subgrade (below ground level) on all sides. (Ref. IBC 1612.2)

16.02.055 Bed.

"Bed" means the land below the ordinary high water lines of state waters. This definition shall not include irrigation ditches, canals, storm water run-off devices, or other artificial watercourses except where they exist in a natural watercourse that has been altered by man.

16.02.060 Bedrock.

"Bedrock" means in-place solid rock.

16.02.065 Berm.

"Berm" means a mound of earth material used as a protective barrier or to control the direction of water flow.

16.02.067 Best Management Practices.

"Best management practices" or "BMPs" means schedules of activities, practices, maintenance procedures, and structural and/or managerial practices that, when used singly or in a combination, prevent or reduce adverse impacts to the environment.

16.02.070 Bioengineering.

"Bioengineering" means project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to aquatic and terrestrial wildlife. Bioengineered or biotechnical bank protection designs may incorporate limited use of armored toes and wood structural elements.

16.02.075 Breakwater.

"Breakwater" means a fixed or floating off-shore structure that protects the shore from wave action or currents.

16.02.080 Bulkhead.

"Bulkhead" means a vertical or nearly vertical erosion protection structure placed parallel to the shore consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion

16.02.082 Cabin.

For purposes of administering the Shoreline Master Program, "cabin" means a small single-family residence of 800 square feet or less, without a garage or carport and without large accessory buildings. Small accessory buildings, such as detached storage sheds or accessory structures totaling 120 square feet or less, may be allowed. Dwellings not meeting these standards are considered standard single-family residences.

16.02.085 Channel.

"Channel" means an open conduit, either naturally or artificially created, which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water.

16.02.090 Channel Migration Zone.

For purposes of administering the Shoreline Master Program, “channel migration zone (CMZ)” means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

16.02.092 Chief Building Official.

“Chief Building Official” or “building official” means the manager of the Building and Fire Safety Division of the Department of Planning or designee.

16.02.095 Classification.

“Classification” means the definition of value and hazard categories to which critical areas and natural resource lands will be assigned.

16.02.100 Clearing.

“Clearing” means the removal of timber, brush, grass, ground cover or other vegetative matter from a site.

16.02.110 Compaction.

“Compaction” means compressing soil through some mechanical means to make it denser.

16.02.115 Confinement Feeding Operation.

“Confinement feeding operation” means the use of structures or pens for the concentrated feeding or holding of animals or poultry, including but not limited to horses, cattle, sheep, or swine. This definition includes dairy confinement areas, slaughterhouses, shipping terminal holding pens, poultry and/or egg production facilities and fur farms, but does not include animal husbandry and normal farming practices.

16.02.120 Construction.

“Construction” means the assembly, placement, or installation of structures, roadways, transmission lines, and other improvements within a project site.

16.02.125 Designated.

“Designated” means formal legislative action to identify and describe a critical area.

16.02.130 Department.

“Department” means the City of Selah Planning Department.

16.02.135 Development.

“Development” means any use as defined under RCW 90.58.030(3)(d) (definitions), or the division of land into lots or parcels in accordance with the city Subdivision Ordinance (SMC Chapter 11.50 ‘Platting and Subdivision Requirements), and any clearing, excavation, dredging, drilling, filling, dumping, removal of earth and mineral materials, or other permanent or temporary modification of a site up to, but not including, construction as defined in this chapter. For the purpose of Chapters 16.05.20 through 16.05.72, “development” also means any manmade change to improved or unimproved real estate located within the special flood hazard area, including but not limited

to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling, temporary or permanent storage of equipment and works defined in this chapter. “Development” does not include dismantling or removing structures if there is no other associated development or re-development.

16.02.140 Dike.

“Dike” means an embankment to prevent flooding by a stream or other water body. A dike is also referred to as a levee.

16.02.145 Dock.

“Dock” means a structure built over or floating upon the water and used as a landing place for boats and other marine transport, fishing, swimming, and other recreational uses.

16.02.150 Dredging.

“Dredging” means removal of earth from the bed of a stream, lake, or pond for the purpose of increasing the depth of surface water or obtaining minerals, construction aggregate, or landfill materials: This definition does not include excavation for mining within a pond created by a mining operation approved under this title or under a local zoning ordinance, or a mining operation in existence before Zoning, Shorelines, or Critical Areas permits were required for such operations.

16.02.160 Earth Material.

“Earth material” means any rock, natural soil, or combination thereof.

16.02.163 Ecological Functions.

For purposes of administering the Shoreline Master Program, “ecological functions” or “shoreline functions” means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem.

16.02.166 Ecosystem-Wide Processes.

For purposes of administering the Shoreline Master Program, “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.

16.02.170 Enhance.

“Enhance” means to strengthen any of the basic functional properties listed in Section 16.06.05 that exist but do not perform at optimum efficiency. “Optimum” refers to the most favorable or best performance of each function achievable for a specific segment of stream corridor.

16.02.175 Ephemeral Stream.

“Ephemeral stream” means a stream that flows only in response to precipitation with no groundwater association, usually less than 30 days per year. The lack of any groundwater association results in a lack of a distinctive riparian vegetation compared to the surrounding landscape.

16.02.180 Erosion.

"Erosion" means the wearing away of the earth's surface as a result of the movement of wind, water, or ice.

16.02.185 Events and Temporary Uses.

For purposes of administering the Shoreline Master Program, "events and temporary uses" means a social or community occasion or activity lasting for a limited time. Events and temporary uses within permitted facilities or legally nonconforming facilities that are designed for such uses are not included in this definition, as long as they do not materially interfere with the normal public use of the water or shorelines of the state.

16.02.190 Excavation.

"Excavation" means the mechanical removal of earth material.

16.02.195 Feasible.

For purposes of administering the Shoreline Master Program, "feasible" means that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

(1) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

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

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

16.02.200 Fill.

"Fill" means the addition of any material, such as (by way of illustration) earth, clay, sand, rock, gravel, concrete rubble, wood chips, bark, or waste of any kind, which is placed, stored or dumped upon the surface of the ground resulting in an increase in the natural surface elevation. The physical structure of a shore stabilization structure shall not be considered fill. However, fill placed behind the structure is considered fill. Stream bed manipulation for irrigation diversions shall not be considered fill.

16.02.205 Flood.

"Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

16.02.206 Flood Hazard Permit.

"Flood hazard permit" means written approval applied for and obtained in accordance with such rules and regulations as are established under this title.

16.02.207 Flood Insurance Rate Map.

"Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

16.02.208 Flood Insurance Study.

"Flood insurance study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

16.02.210 Floodplain.

"Floodplain" means a land area adjoining a river, stream, watercourse or lake which has been determined likely to flood. The extent of the floodplain may vary with the frequency of flooding being considered. "Floodplain" is synonymous with the one-hundred-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year.

16.02.215 Flood-prone.

"Flood-prone" means a land area for which a floodway and floodplain have not been determined with respect to any specific flood frequency, but for which the potential for flooding can be identified by information observable in the field such as soils or geological evidence, or by materials such as flood studies, topographic surveys, photographic evidence or other data.

16.02.216 Flood-proofing.

"Flood-proofing" for purposes of administering Chapters 16.05.20 through 16.05.72 means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damages to lands, water and sanitary facilities, structures and contents of buildings.

16.02.220 Floodway.

"Floodway" means the area, as identified in a master program, that either: (i) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or (ii) consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway must not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state [RCW 90.58.030(2)(b)].

16.02.225 Floodway Fringe.

"Floodway fringe" for purposes of administering Chapters 16.05.20 through 16.05.72 means that portion of a floodplain which is inundated by floodwaters but is not within a defined floodway. Floodway fringes serve as temporary storage for floodwaters.

16.02.230 Forest Land.

"Forest land" means land primarily devoted to forest practices activities.

16.02.240 Forest Practices.

"Forest practices" means activities conducted under federal forest practices approval or under a Forest Practices permit reviewed and approved by the Washington Department of Natural Resources pertaining to the management of forest land, including growing, managing, harvesting, and interim storage of merchantable timber for commercial

value, as well as incidental activities reviewed under federal or state approval, such as road construction and maintenance (including bridges) and mining activities.

16.02.250 Grade.

"Grade" means the vertical location of the ground surface. "Natural grade" is the grade as it exists or may have existed in its original undisturbed condition. "Existing grade" is the current grade in either its undisturbed, natural condition or as disturbed by some previous modification. "Rough grade" is a stage where grade conforms approximately to an approved plan. "Finish grade" is the final grade of the site which conforms to an approved plan.

16.02.255 Grading.

"Grading" means any excavation, filling, or combination thereof.

16.02.260 Groundwater.

"Groundwater" means water that occurs beneath the land surface, also called subsurface water or subterranean water. Groundwater includes water in the zone of saturation of a water-bearing formation.

16.02.266 Hyporheic.

"Hyporheic" means a groundwater area adjacent to and below channels where water is exchanged with channel water and water movement is mainly in the downstream direction.

16.02.270 Intermittent Streams.

"Intermittent stream" means a stream which flows only during certain times of the year, with inputs from precipitation and groundwater, but usually more than 30 days per year. The groundwater association generally produces an identifiable riparian area. This definition does not include streams that are intermittent because of irrigation diversion or other manmade diversions of the water.

16.02.275 Lake or Pond.

"Lake or pond" means an inland body of standing water. The term includes the reservoir or expanded part of a river behind a dam.

16.02.282 Manufactured Home.

"Manufactured home" means a structure fabricated on a permanent chassis that is transportable in one or more sections; is designed to be used with or without a permanent foundation when connected to the required facilities; has sleeping, cooking, and plumbing facilities or any combination thereof; and is intended for human occupancy or is being used for residential purposes. Although Washington Administrative Code (WAC) and City of Selah Code separately define and distinguish between "manufactured home" and "mobile home" according to federal or state construction codes for such dwellings, the term "manufactured home" shall include "mobile home" for regulatory purposes under this chapter. The term shall not include "recreation vehicle," "commercial coach," "camping vehicle," "travel trailer," "park trailer," "tip-out," and any other similar vehicle which is not intended, designed, constructed or used for residential purposes for use as a single-family dwelling and is not otherwise labeled as a manufactured or mobile home under any federal or state law. For floodplain management purposes only under this chapter, park trailers, camping vehicles, travel trailers, tip-outs, and other similar vehicles shall be considered manufactured homes when placed on a site for greater than one hundred eighty days.

16.02.283 Manufactured Home Park or Subdivision.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale pursuant to SMC Chapter 10.56.

16.02.284 Manufactured Home Park or Subdivision, Existing.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before October 1, 1995, the effective date of these floodplain management regulations.

16.02.285 Minerals.

"Minerals" means gravel, sand and metallic and nonmetallic substances of commercial value.

16.02.290 Mining.

"Mining" means the removal of naturally occurring minerals and materials from the earth for commercial value. Mining includes processing and batching. Mining does not include large excavations for structures, foundations, parking areas, etc. Also see Dredging and Excavation (16.06.20).

16.02.295 Native.

"Native" means indigenous to, or originating naturally within, City of Selah.

16.02.300 Natural Conditions.

"Natural conditions" means those conditions which arise from or are found in nature and not modified by human intervention; not to include artificial or manufactured conditions.

16.02.302 Nonconforming Development or Nonconforming Structure.

"Nonconforming structure" means an existing structure that was lawfully constructed at the time it was built prior to the effective date of the SMA or this Shoreline Master Program, but is no longer fully consistent with present regulations such as setbacks, buffer or yards; area; bulk; height or density standards due to subsequent changes to the master program.

16.02.303 Nonconforming Lot.

"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.

16.02.304 Nonconforming Use.

"Nonconforming use" means an existing shoreline use which was lawfully established prior to the effective date of provisions of the SMA or this Shoreline Master Program, but which no longer conforms to the present use regulations due to subsequent changes to the SMP.

16.02.305 Ordinary High Water Mark (OHWM).

"Ordinary high water mark" means that mark on lakes and streams which 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 ordinary years, as to mark upon the soil a character distinct from that of the abutting upland.

16.02.310 Perennial Stream.

"Perennial stream" means a stream that flows year round in normal water years. Groundwater is a source of much of the water in the channel.

16.02.320 Project Site.

"Project site" means that portion of any lot, parcel, tract, or combination thereof which encompasses all phases of the total project proposal.

16.02.322 Recreation Vehicle.

"Recreation vehicle" means a vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

16.02.325 Restore.

"Restore" means to re-establish the basic functional properties that have been lost or destroyed through natural events or human activity. This may be accomplished through measures including but not limited to re-vegetation, removal of intrusive structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the site to aboriginal or pre-European settlement conditions.

16.02.330 Revetment.

"Revetment" means a facing placed on a bank or bluff to protect a slope, embankment, or shore structure against erosion by wave action or currents.

16.02.335 Riparian Vegetation.

"Riparian vegetation" means the terrestrial vegetation that grows beside rivers, streams, and other freshwater bodies and that depends on these water sources for soil moisture greater than would otherwise be available from local precipitation.

16.02.340 Riprap.

"Riprap" means a layer, facing, or protective mound of stones randomly placed to prevent erosion, scour, or sloughing of a structure or embankment; also the stone used for this purpose.

16.02.345 Scour.

"Scour" means the removal of underwater material by waves and currents, especially at the base or toe of a shore stabilization structure.

16.02.355 Shoreline.

For purposes of administering the Shoreline Master Program, "shoreline" means those water areas, the associated features, and the land areas within the City of Selah that are subject to the State Shoreline Management Act, especially as defined in RCW 90.58.030 (definitions), and as further identified in 16.06.02 (Shoreline Jurisdiction).

16.02.360 Shore Stabilization.

"Shore stabilization" means the construction or modification of bulkheads, retaining walls, dikes, levies, riprap, breakwaters, jetties, groins, weirs, and other structures along the shore, for the purpose of controlling stream undercutting, stream erosion or lake shore erosion.

16.02.363 Single Improved Recreational Vehicle Site.

For purposes of administering the Shoreline Master Program, "single improved recreational vehicle site" means a site on which a recreational vehicle, as defined in 16.02.322, may be parked with minimal services (such as electricity, well and septic system), without a garage or carport, and without large accessory buildings (small detached storage sheds or accessory structures totaling 120 square feet or less may be allowed). Recreational vehicle sites not meeting these criteria are considered single-family residences.

16.02.365 Slope.

"Slope" means an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

16.02.366 Solid Waste.

"Solid waste" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, wood waste, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, and discarded commodities. Solid waste shall not include earth, clay, sand or gravel.

16.02.367 Special Flood Hazard Areas.

"Special flood hazard area" means the land in the floodplain identified by the Federal Emergency Management Agency, that is subject to a one-percent or greater chance of flooding in any given year; commonly known as the 100-year floodplain.

16.02.370 Stream.

"Stream" means water contained within a channel, either perennial, intermittent or ephemeral. Streams include natural watercourses modified by man, for example, by stream flow manipulation, channelization, and relocation of the channel. They do not include irrigation ditches, wasteways, drains, outfalls, operational spillways, canals, stormwater runoff facilities, or other artificial watercourses.

16.02.390 Structure.

"Structure" means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground, but not including fences or walls used as fences less than six feet in height. The term also includes gas or liquid storage tanks when located principally above ground.

16.02.400 Use.

"Use" means the activity to which land or a building is devoted and for which either land or a building is or may be occupied or maintained.

16.02.415 Vegetative Buffer or Buffer.

"Vegetative buffer" or "buffer" means an area extending landward from the ordinary high water mark of a lake or stream and/or from the edge of a wetland which is maintained or otherwise allowed to provide, under optimal conditions, adequate soil conditions and native vegetation for the performance of the basic functional properties of shorelines or critical areas as set forth in Chapter 11.50 SMC. It is understood that optimal conditions do not always exist due to degradation of the vegetative buffer before establishment of this title, or due to colonization by non-native species. Such conditions still provide functional properties, though at a lower level, depending on the difference from natural conditions.

16.02.425 Wetland.

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

16.02.430 Wildlife.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (Old World rats and mice).

16.02.435 Wildlife Habitat.

"Wildlife habitat" means areas which, because of climate, soils, vegetation, relationship to water, location and other physical properties, have been identified as of critical importance to maintenance of wildlife species.

16.02.440 Works.

"Works" means any dam, wall, wharf, embankment, levee, dike, berm, pile, bridge, improved road, abutments, projection, excavation, channel rectification, or improvement attached to, or affixed upon, the realty.

Chapter 16.03 - APPLICATION AND REVIEW PROCEDURES

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ARTICLE I – GENERAL PROVISIONS

16.03.01 Shoreline Development Authorization Required.

(1) No new development, construction or use shall occur within shoreline jurisdiction without obtaining a development authorization in accordance with the provisions of this title, except for those provided for in section 16.03.05 (Exceptions to Local Review) and 16.03.09 (Exemptions). Exemptions, as provided for in sections 16.03.09, shall be considered as development authorization, including those taking place on federal lands and requiring permits or review as provided in 16.01.06 (Applicability of Permit System to Federal Agencies) but qualifying for other exemptions under this chapter. All proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this master program.

(2) With respect to application and review procedures, it is the intent of this title to streamline and coordinate the authorization of critical area projects which require other local, state and/or federal permits or authorizations. Any nonexempt development, construction or use occurring within shoreline jurisdiction shall be processed according to the provisions of this chapter and the Critical Area Ordinance (SMC Chapter 11.50).

(3) Approval of a development authorization under this title shall be in addition to, and not a substitute for, any other development permit or authorization required by the City of Selah. Approval of a development authorization under this title shall not be interpreted as an approval of any other permit or authorization required of a development, construction or use.

(4) Permits issued in accordance with this title shall run with the land.

ARTICLE II – ABBREVIATED REVIEW ALTERNATIVES

16.03.04 Minor Activities Allowed without a Permit or Exemption.

(1) The following activities are included under 16.01.05(1) (Applicability) and are allowed without a permit or exemption:

(a) Maintenance of existing, lawfully established areas of crop vegetation, landscaping (including paths and trails) or gardens within a regulated critical area or its buffer. Examples include harvesting or changing crops, mowing lawns, weeding, harvesting and replanting of garden crops, pruning, and planting of non-invasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas. Cutting down trees and shrubs within a buffer is not covered under this provision. Excavation, filling, and construction of new landscaping features, such as concrete work, berms and walls, are not covered in this provision and are subject to review;

(b) Minor maintenance and/or repair of lawfully established structures that do not involve additional construction, earthwork or clearing. Examples include painting, trim or facing replacement, re-roofing, etc. Construction or replacement of structural elements is not covered in this provision, but may be covered under an exemption. Cleaning canals, ditches, drains, wasteways, etc., without expanding their original configuration is not considered additional earthwork, as long as the cleared materials are placed outside the stream corridor, wetlands, and buffers;

(c) Low impact activities such as hiking, canoeing, viewing, nature study, photography, hunting, fishing, education or scientific research;

(d) Creation of unimproved private trails that do not cross streams or wetlands that are less than two (2) feet wide and do not involve placement of fill or grubbing of vegetation;

(e) Planting of native vegetation;

(f) Noxious weed control outside vegetative buffers identified in Chapter 16.06.16, except for area wide vegetation removal/grubbing;

(g) Noxious weed control within vegetative buffers, if the criteria listed below are met. Control methods not meeting these criteria may still apply for a restoration exemption, or other authorization as applicable:

(i) Hand removal/spraying of individual plants only;

(ii) No area wide vegetation removal/grubbing.

16.03.05 Exceptions to Local Review.

Requirements to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

(1) Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. Periodic Review Checklist Guidance 6 September 2019

(2) Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.

(3) WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.

(4) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.

(5) Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

16.03.06 Exemption – Procedural Requirements.

Certain activities and uses are exempt from some permit processes and shall instead be reviewed using the procedures below.

(1) Exemptions shall be construed narrowly and any exempted development shall be consistent with the policies and provisions of this title.

(2) Only those developments that meet the precise terms of one or more of the listed exemptions may qualify for review under these provisions.

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

(4) The burden of proof that a development or use is exempt from the development permit process is on the applicant.

(5) When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this title, such development must also obtain a variance (16.03.22).

(6) All activities exempt from the requirement for a substantial development permit shall use reasonable methods to avoid impacts to critical areas within shoreline jurisdiction. To be exempt from the requirement for a substantial development permit does not give permission to degrade a critical area or Shoreline or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense, according to section 16.06.23 (Reclamation).

(7) The proponent of an exempt activity shall submit a written request for permit exemption to the administrative official that describes the activity and states the exemption requested. The applicant shall submit to the administrative official a written description of the project that demonstrates compliance with applicable standards.

(8) The administrative official shall review the exemption request to verify that it complies with this title.

(9) The administrative official shall approve or deny the exemption.

(10) A formal letter of exemption shall be provided where an exempt activity is approved under this title. A copy of the exemption shall be kept on file by the administrative official. If an exemption cannot be granted, the administrative official shall notify the applicant in writing of the reason, at which time the applicant may pursue other permit processes under this title.

(11) Conditions may be attached to the approval of exempted developments and/or uses as necessary to assure continued consistency of the project with this title.

(12) Exempt activities are identified in the following locations. Such activities are stated as exempt from the substantial development permit or flood hazard permits. However, this provision does not exempt an activity from other permits or reviews that may be required under this title.

(a) Those activities listed in WAC 173-27-040, and summarized in section 16.03.09 (Exemptions), are exempt from the substantial development permit requirements;

16.03.07 Permit Filing Procedures.

After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both Conditional Use Permits and or Variances must be mailed simultaneously with any Substantial Development Permits for the project.

(1) The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.

(2) Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one day appeal period starts with the date of filing, which is defined below:

(a) For projects that only require a Substantial Development Permit: the date that Ecology receives the City's decision.

(b) For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.

(c) For SDPs simultaneously mailed with a CUP or Variance to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City.

16.03.08 WSDOT Project Special Procedures.

(1) The City will conduct permit reviews for WSDOT projects on state highways within 90 days, pursuant to RCW 47.01.485.

(2) Pursuant to RCW 90.58.140, WSDOT projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

16.03.09 Exemptions.

The development activities identified in WAC 173-27-040, and summarized below, are exempt from substantial development permits that are required within Shoreline jurisdiction designated in chapter 16.10.03 (Shoreline Jurisdiction):

(1) Construction by an owner, lessee, or contract purchaser of a single-family residence for his own use or the use of his family, which residence meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this title. "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. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high water mark;

(2) Construction of the normal protective bulkhead common to single-family residences. A “normal protective” bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the department of fish and wildlife;

(3) Development and construction for which the total cost or fair market value, whichever is higher, does not exceed 7,047 dollars (adjusted for inflation as determined by the Washington Office of Financial Management using methods provided in RCW 90.58.030(3)(e) and WAC173-27-040(2)(a)); provided such development and construction does not materially interfere with the public use of the water or shorelines of the state. The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

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

(5) Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements. “Normal maintenance” includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. “Normal repair” means to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance, and the replacement does not cause additional substantial adverse effects to shoreline resources or environment. The need for replacement resulting from a neglect of maintenance and repair is not considered a common method of repair. Replacement of nonconforming uses or facilities may also be subject to section 16.03.26 (Nonconforming Uses and Facilities);

(6) Emergency construction necessary to protect property from damage by the elements. An “emergency” is an unanticipated and imminent threat, which requires immediate action or response within a time period too brief to allow full compliance with this title. The following criteria must exist to qualify any action under an emergency provision:

(a) There must be an immediate threat to life, public or private property, or an immediate threat of serious environmental degradation arising from a natural condition or technical incident;

(b) The emergency response must be confined to the action necessary to protect life or property from damage;

(c) The scope of the emergency response must be limited to the work necessary to relieve the immediate threat;

(d) The emergency response applies only to the period of time in which the actual emergency exists;

(e) The request must be accompanied by a paid permit application or a request for a non-emergency exemption. Submittal requirements beyond normal exemption submittal requirements are waived until after the emergency is deemed abated.

As soon as the emergency is deemed abated by appropriate authorities, compliance with the requirements of this title is required, and may include removal of the emergency construction if nonstructural construction measures can adequately deal with site issues;

(7) Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee or contract purchaser of a single-family and multiple-family residence. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if:

(a) In fresh waters the fair market value of the dock replacement does not exceed twenty-two thousand five hundred ($22,500), and are of equal or lesser square footage than the existing dock being replaced, or

(b) The fair market value of new docks constructed in fresh waters does not exceed eleven thousand two hundred ($11,200) dollar. However, subsequent construction having a fair market value exceeding the amount above occurs within five years of completion of the prior construction, the subsequent construction must be considered a substantial development for the purpose of these regulations.

(8) The operation, maintenance or construction of canals, waterways, drains, reservoirs, or other manmade facilities that now exist or are hereinafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water from the irrigation of lands;

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

(10) Construction or modification, by or under the authority of the Coast Guard or a designated port management authority, of navigational aids such as channel markers and anchor buoys;

(11) Any project with a certification from the governor pursuant to chapter 80.50 RCW (Energy facilities – site locations);

(12) Watershed restoration project that are authorized by the sponsor of a watershed restoration plan and that implement the plan or a part of the plan, and meet the requirements of WAC 173-27-040(6), as amended;

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

(a) The activity does not interfere with the normal public use of surface waters within shoreline jurisdiction;

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

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

(d) A private entity seeking development authorization within shoreline jurisdiction must first post a performance bond or provide other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions;

(14) The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020 (control of spartina and purple loosestrife), through the use of an herbicide or other treatment methods applicable to weed

control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under chapter 43.21C RCW (SEPA);

(15) A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, that meets the requirements of WAC 173-27-040(2)(p) as amended.

(a) The project has been approved in writing by the Department of Fish and Wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose;

(b) The project has received hydraulic project approval, when required, by the department of fish and wildlife pursuant to chapter 75.20 RCW (Hydraulics Code);

(c) The administrative official has determined that the project is consistent with this title;

(d) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 (Fish Habitat Enhancement Projects) are deemed to be consistent with this title;

(16) Hazardous substance remedial actions, for which a consent decree, order or agreed order has been issued pursuant to chapter 70.105D RCW (Model Toxics Control Act) or when the Department of Ecology conducts a remedial action under chapter 70.105D RCW (Model Toxics Control Act). The Department of Ecology shall assure that such projects comply with the substantive requirements of chapter 90.58 RCW (SMA), chapter 173-26 WAC (SMA Guidelines) and the Shoreline Master Program, when applicable;

(17) The removal of trees that are hazardous, posing a threat to public safety, or posing an imminent risk of damage to private property from critical areas and buffers; provided, that:

(a) A dead tree within a buffer may be shortened to the point that the tree will not strike a structure or defined vehicle parking area. The remainder shall be maintained to provide wildlife habitat, nesting locations and perch sites. A remainder less than ten (10) feet tall may be removed completely;

(b) A diseased or damaged tree may be removed as determined by the administrative official;

(c) The removed portion of trees should be placed within the vegetative buffer area as wildlife habitat, unless it will interfere with a maintained vegetation area identified in section 16.03.05(1)(a) (Minor Activities Allowed without a Permit or Exemption), or as determined otherwise by the administrative official. Portions of trees to be removed from the buffer area should be felled to the outer edge of a vegetative buffer and dragged out. Heavy equipment is not allowed within the buffer, except within areas identified in 16.03.05(1)(a) (Minor Activities Allowed without a Permit or Exemption). Damaged riparian vegetation must be repaired;

(d) Each tree that is felled or topped shall be replaced in a manner acceptable to the administrative official.

(18) The external or internal retrofitting of an existing structure with exclusive purpose of compliance with the Americans with Disabilities Act (ADA) of 1990 or to otherwise provide physical access to the structure by individuals with disabilities.

16.03.10 Mitigation Requirements.

(1) All developments shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following order of preference:

(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, such as project redesign, relocation, or timing, 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 during the life of the action;

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

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

(2) Mitigation for individual actions may include a combination of the above measures.

(3) Unless otherwise provided in this title, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated in accordance with an approved mitigation plan. Mitigation shall not be implemented until after approval of the mitigation plan.

(4) Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area. When necessary, mitigation may be provided that is out-of-kind and/or off-site.

ARTICLE III – REVIEW PROCESS

16.03.11 Application Submittal.

(1) Application for a development authorization under this title shall be made on forms provided by the department. The application submittal shall include a site plan drawn to scale showing:

(a) The actual shape and dimensions of the property site to be used;

(b) Existing and proposed structures;

(c) Excavation, fill, drainage facilities, topography, slope; and

(d) Such other information as is needed to determine the nature and scope of the proposed development, including the maximum extent of the project site with respect to construction, excavation, equipment and material storage, and other project related work.

(2) The site plan should also show the location of all critical areas, such as those identified in sections SMC 11.50 and include all required critical areas reports prepared in conformance with SMC 11.50.080.

16.03.12 Determination of Review Process.

(1) The administrative official shall determine from the application submittal, and other available information, what type of permit or review is required under this title. The administrative official shall make such determination as early in the application process as is possible and shall inform the project applicant in writing of any application needs.

(2) Specific information on when a permit or review is required, its review process type and review criteria are found in the section for each permit or review. However, a brief description of each type of permit or review is provided in Table 3-1 below. Some permits or reviews are general and all projects will have a general review. Some permits are more specialized and apply only in specific cases or situations. More than one (1) permit or review may be needed for a project.

Table 3-1

General Permits or Reviews
Substantial Development. Shoreline Substantial development projects include any development subject to RCW Chapter 90.58, the Shoreline Management Act.
Exemptions. Exemptions are generally minor activities that do not need to go through the permit process.
Specific Permits
Conditional Use Permit. Shoreline Conditional Uses are those uses within Shoreline jurisdiction that are identified in Table 16.10.05 as conditional uses, and that are usually seen as uses that either do not need a Shoreline location, are considered not to be suitable for siting in shoreline locations, or have impacts that need closer scrutiny.
Variance. A Shoreline Variance may be used within Shoreline jurisdiction to grant relief from specific performance standards where there are extraordinary circumstances that will impose unnecessary hardships.
Nonconforming Use or Facility Alteration. Nonconforming Use or Facility Alterations are necessary when an existing legal use that currently does not conform to this title is to be altered.
Minor Revisions to an Existing Permit. Minor Revisions to an Existing Permit allow simplified review of certain changes to a project that has previously received a permit.

16.03.13 Development Authorization – Review Procedure.

Upon submittal and acceptance of a completed development authorization application, the administrative official shall process and review the application as follows.

(1) Development authorizations shall be processed consistent with review procedures provided in SMC Chapter 10.06.040 (Application Review Procedures), and with any specific processes requirements provided in 16.03.19 through 16.03.26 (specific permit descriptions), including but not limited to:

(a) Submittals;

(b) Completeness review;

(c) Notices;

(d) Reviewing Official's Decision

(e) Hearings;

(f) Decision; and

(g) Decision appeals.

(2) Development authorizations shall be reviewed for conformance with the applicable development standards provided in Chapter 11.50 SMC and in Chapter 16.06.

(2) Decisions on a development authorization shall be consistent with section 16.03.14 (Authorization Decisions – Basis for Action), 16.03.15 (Conditional Approval of Development Authorization) and with any specific decision criteria provided under the sections for each relevant permit type, as provided in 16.03.19 through 16.03.26 (specific permit descriptions).

(3) In addition to the review procedures of SMC Title 21, the following additional procedures shall apply to development authorizations within shoreline jurisdiction:

(a) The public comment period for shoreline permits shall conform to WAC 173-27-110 (30 days), except that the public comment period for limited utility extensions and shoreline stabilization measures for bulkheads to protect a single-family residence and its appurtenant structures shall conform to WAC 173-27-120 (20 days);

(b) For limited utility extensions and bulkheads for a single-family residence, the time for the City to issue a decision shall conform to WAC 173-27-120 (21 days from the last day of the comment period);

(c) The effective date of a shoreline permit shall conform to WAC 173-27-090 (the later of the permit date or the date of final action on subsequent appeals of the shoreline permit, unless the applicant notifies the Department of delays in other necessary construction permits);

(d) The expiration dates for a shoreline permit regarding start of construction and completion, and the extension of deadlines for those dates, shall conform with WAC 173-27-090 (start construction within 2 years, complete construction within 5 years, 1 year extensions of those dates, and allowance for the administrative official to set alternative permit expiration dates with a showing of good cause);

(e) For limited utility extensions and bulkheads for single-family residences, the time for the City to complete any local appeal shall conform to WAC 173-27-120 (30 days);

(f) The Department shall send its decision and the application materials to the Department of Ecology after the local decision and any local appeal procedures have been completed in conformance with WAC 173-27-130;

(g) For substantial development permits, the Department of Ecology will file the permit without additional action according to WAC 173-27-130;

(h) For conditional use and variance permits, the Department of Ecology will follow WAC 173-27-130 and WAC 173-27-200 (issue a decision within 30 days of the date of filing);

(i) The appeal period of a Department of Ecology action to the Shoreline Hearings Board will follow WAC 173-27-190 (21 days from the date of filing for a substantial development permit, or issuing a decision on a conditional use or variance permit);

(j) The Shorelines Hearings Board will follow the rules governing that body (RCW 90.58).

16.03.14 Authorization Decisions – Basis for Action.

The action on any development authorization under this title shall be based upon the following criteria:

(1) Danger to life and property that would likely occur as a result of the project;

(2) Compatibility of the project with the critical area features on, adjacent to, or near the property; Shoreline values and ecological functions; and public access and navigation;

(3) Conformance with the applicable development standards in this title;

(4) Requirements of other applicable local, state or federal permits or authorizations, including compliance with flood damage preventions requirements of Chapter 11.19 SMC;

(5) Adequacy of the information provided by the applicant or available to the department;

(6) Ability of the project to satisfy the purpose and intent of this title;

(7) Based upon the project evaluation, the decision maker shall take one of the following actions:

(a) Grant the development authorization;

(b) Grant the development authorization with conditions, as provided in 16.03.15 (Conditional Approval of Development Authorization), to mitigate impacts to the critical area feature(s) present on or adjacent to the project site;

(c) Deny the development authorization;

(8) The decision by the administrative official on the development authorization shall include written findings and conclusions stating the reasons upon which the decision is based.

16.03.15 Conditional Approval of Development.

In granting any development authorization, the decision maker may impose conditions to:

(1) Accomplish the purpose and intent of this title;

(2) Eliminate or mitigate any identified specific or general negative impacts of the project on the critical area, and on shoreline ecological functions;

(3) Restore important resource features that have been degraded or lost because of past or present activities on the project site;

(4) Protect designated critical areas and shoreline jurisdiction, from damaging and incompatible development;

(5) Ensure compliance with specific development standards in this title.

16.03.16 Fees and Charges.

The City Council establishes the schedule of fees and charges listed in City of Selah Code, Title 20 (City of Selah Fee Schedule), for development authorizations, variances, appeals and other matters pertaining to this title.

ARTICLE IV – PERMIT REVIEW CRITERIA

16.03.19 Substantial Development Permit.

(1) Classification Criteria. Substantial development permits include any development subject to RCW Chapter 90.58 (Shoreline Management Act).

(2) Process. Substantial development permits shall be processed as a Class 2 review in accordance with SMC section 10.06 (Applications).

(3) Decision Criteria. Decisions on substantial development permits shall be based on the general decision criteria found in section 16.03.14 (Authorization Decisions – Basis for Action).

16.03.21 Shoreline Conditional Uses.

(1) Classification Criteria. Shoreline Conditional Uses are those uses within Shoreline jurisdiction that are identified in section 16.06.09 (Shoreline Land Use table) as Conditional Uses, and that are usually seen as uses that either do not need a shoreline location, are considered not to be suitable for siting in shoreline locations, or have impacts that need closer scrutiny. Unclassified Conditional projects, uses and developments which may be proposed in the future, but were not considered during development of the SMP. It is understood, however, that there may be special circumstances or a special type or style of conditional use that would make shoreline siting of special cases acceptable to the goals, policies and intentions of the master program. The purpose of a conditional use permit is to provide a system which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020 (Legislative findings). In authorizing a conditional use, special conditions may be

attached to the permit by City of Selah 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.

(2) Process. All applications for a conditional use shall be processed as a Class 2 review in accordance with SMC section 10.06 (Applications).

(3) Decision Criteria. The decision on a conditional use shall be based upon the criteria established in Section 16.03.14 (Authorization Decisions – Basis for Action) together with the criteria established below. The burden of proving that the project is consistent with the applicable criteria shall be upon the applicant, who must supply evidence or information demonstrating to the satisfaction of the administrative official that all of the following criteria will be met:

(a) Failure to satisfy any one of the criteria below shall result in denial of the conditional use.

(i) That the proposed use will be consistent with the policies of RCW 90.58.020 (Legislative findings).

(ii) That the proposed use will not interfere with the normal public use of public shorelines.

(iii) That the proposed use of the site and design of the project will be compatible with other permitted uses within the area.

(iv) That the proposed use will cause no significant adverse effects to the shoreline environment designation in which it is located.

(v) That the public interest suffers no substantial detrimental effect.

(b) 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 (Legislative findings) and shall not produce substantial adverse effects to the shoreline environment.

16.03.22 Variance.

(1) Classification Criteria. A variance may be used within shoreline jurisdiction to grant relief from specific bulk, dimensional or performance standards where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the standards will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020 (Legislative findings). Shoreline variances from the use regulations of the master program are prohibited.

(2) Process. Each request for a Variance shall be considered separately and prior to any decision on an application for development authorization. Any decision to approve or conditionally approve the development authorization will include and specifically cite only those variances approved for inclusion with the project.

(3) Decision Criteria. The decision on a Variance shall be based upon the criteria established in WAC 173-27-170 together with the criteria established below. Variance requests shall cite the specific standard or condition from which relief is requested and be accompanied by the evidence necessary to demonstrate the variance is in conformance with all of the criteria below. Failure to satisfy any one of the criteria shall result in denial of the variance.

(a) Special Conditions. There is a hardship identified in (3)(b) below, that is specifically related to a unique natural or physical condition associated with the project site, such as irregular lot shape, size, or natural features, which is not the result of a deed restriction, a lack of knowledge of requirements involved when the property was acquired, or other actions resulting from the proponent's own actions;

(b) Unnecessary Hardship. The strict application of a standard would deprive the proponent of a reasonable use of the land or rights commonly enjoyed by other properties in the same area. That greater profit would result if a variance were granted is not evidence of a hardship;

(c) General Compatibility. The project is generally compatible with other permitted or authorized uses in the immediate project area and with uses planned for the area under the comprehensive plan and/or the Shoreline Master Program and granting the variance will not cause adverse effects to abutting and adjacent properties or the critical area;

(d) Special Privilege. The requested variance would not constitute a grant of special privilege not enjoyed by other abutting and adjacent properties and the variance is the minimum necessary to afford the requested relief;

(e) Public Interest. The requested variance will not endanger the public safety or health and that the public interest will not be compromised;

(f) Cumulative Impact. In the granting of any variance, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if other variances were to be granted in the area where similar circumstances exist, the total cumulative effect of the variances shall also remain consistent with the policies of this chapter and shall not produce substantial adverse impacts to the designated critical area;

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

16.03.25 Minor Revisions to Approved Uses or Developments.

(1) Classification Criteria. Minor revisions to a project that has been approved under a permit are allowed in certain circumstances.

(a) Changes that are not substantive are not required to obtain a revision and may be allowed as activities to implement the original permit. Examples of such include minor changes in facility orientation or location, minor changes in structural design that do not change the height or increase ground floor area, and minor accessory structures (such as equipment covers or small sheds near the main structure, etc.);

(b) Substantive changes are those that materially alter the project in a manner that relates to its conformance with the permit requirements, or with the Shoreline Master Program.

Such changes may be approved as a minor revision, if the administrative official determines that the proposed revision and all previous revisions are within the scope and intent of the original permit, and meet the criteria listed below. Changes not able to meet the criteria must obtain a new permit;

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

(d) Lot coverage and height may be increased a maximum of ten percent from the provisions of the original permit; provided, that revisions involving new structures not shown on the original site plan shall require a new permit; and provided further, that any revisions authorized under this subsection shall not exceed height, lot coverage, setback or any other requirements of these regulations;

(e) Landscaping may be added to a project without necessitating an application for a new permit; provided, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with this title for the area in which the project is located;

(f) The use authorized pursuant to the original permit is not changed;

(g) No additional significant adverse environmental impact will be caused by the project revision.

(2) Process. Minor revisions to existing permits shall be processed as a Class 1review, as provided under SMC Chapter 10.06. Parties of record to the original permit shall be notified of the revision, though a comment period is

not required. A revision for a project within shoreline jurisdiction shall follow state filing, appeal and approval standards as provided in WAC 173-27-100 (Revisions to Permits).

(3) Decision Criteria. Decisions on permit revisions shall be based on the general decision criteria found in

16.03.26 Nonconforming Uses and Facilities.

Nonconforming uses and facilities are classified as either conforming uses with nonconforming structures or areas, or as nonconforming uses, as described in subsection 1 below. Both types have different review processes and decision criteria, as provided below in subsections 2 and 3.

(1) Classification Criteria. There may be situations that do not conform to the standards or regulations of this title. These situations are characterized as:

(a) Nonconforming Uses. Uses of a structure or land that were lawfully established at the time of their initiation but are currently prohibited by this title are nonconforming uses, and may utilize structures or land areas that are also nonconforming. A nonconforming use that is discontinued for any reason for more than one year shall have a presumption of intent to abandon, shall not be re-established, and shall lose its nonconforming status, unless a variance is obtained to extend the length of time, based on documentation showing that an intent to abandon did not exist during the period of discontinuance. Such a variance request may be submitted after the deadline has passed. In the case of destruction or damage where reconstruction costs exceed 50% of the assessed value, the structure shall not be rebuilt.

(b) Conforming uses with nonconforming structures or areas are structures or areas for conforming uses that were lawfully established at the time of their initiation, but currently do not conform to the bulk, dimensional or other development standards of this title. Structures or areas in locations approved under a permit shall not be considered nonconforming. Nonconforming outdoor areas that have not been used or maintained for 5 consecutive years shall lose their nonconforming status and may not be reestablished.

(c) Any nonconforming structure, area, or use may be maintained with ordinary care according to the provisions in 16.01.05 (Applicability) and 16.03.06 (Exemptions – Procedural Requirements), and do not require additional review under these nonconforming provisions.

(2) Process.

(a) Alterations to conforming uses with nonconforming structures or areas shall be allowed under the following process requirements with the understanding that other permits or reviews may also be required under this title:

(i) Those that do not increase the existing nonconformity and otherwise conform to all other provisions of this title are allowed without additional review under these nonconforming provisions;

(ii) Those that increase the nonconformity, including establishing additional square footage within a buffer, are allowed without additional review under these nonconforming provisions; however, a variance must be obtained for the increased nonconformity;

(iii) Reconstruction or repair of a structure damaged less than 75% of the assessed value shall be processed as provided in subsections (i) and (ii) above;

(iv) A nonconforming structure which is moved any distance shall be processed as provided in subsections (i) and (ii) above;

(v) Reconstruction or repair of structures destroyed or damaged 75% or more of the assessed value of the structure (not the whole property), including that resulting from neglect of maintenance or repair, shall be processed under these nonconforming provisions as a Class 2 review under SMC Section 10.06 (Applications).

(b) Alterations to Nonconforming Uses.

(i) Those involving expansion or alteration within an existing structure, but do not include alterations to outdoor areas, or expansions of the building's height or square footage are allowed without additional review under these nonconforming provisions.

(ii) Alterations to nonconforming uses, including their nonconforming structures or areas that do not qualify under paragraph (i) above, shall be processed under these nonconforming provisions as a Class 2 review, as provided under SMC Section 10.06 (Applications).

(iii) Within shoreline jurisdiction, and only within the urban and rural shoreline environments, a nonconforming use as listed in section 16.06.09 (Shoreline Land Use Table) may convert to another nonconforming use; although, a nonconforming use shall not change to any use prohibited in section 16.06.10 (Prohibited Uses). Conversion from one nonconforming use to another within the urban and rural shoreline environments shall be processed under these nonconforming provisions as a Class 2 review, as provided under SMC Section 10.06.

(3) Decision Criteria.

(a) Decisions on projects that require review under the nonconforming provisions, as identified under subsection (2) above, shall be based on the general decision criteria found in section 16.03.14 (Authorization Decisions – Basis for Action) together with the criteria below.

(b) Applications for conforming uses with nonconforming structures or areas that are subject to subsection 2(a)(v) above shall not be approved unless a finding is made that the project meets all of the following criteria:

(i) Using the original location will not place the structure or people in danger of a hazard;

(ii) The previous structure and any structural shore modification used to protect the structure did not increase hazards or damage to other properties;

(iii) The previous structure and any shore modification used to protect the structure did not cause significant impacts to the functions and values of the critical area.

(c) Decisions on nonconforming uses:

(i) A nonconforming use may not be altered or expanded in any manner that would bring that use into greater nonconformity;

(ii) Within shoreline jurisdiction, nonconforming uses shall meet the decision criteria for conditional use permits in section 16.03.21(3) (Shoreline Conditional Uses);

(iii) Within shoreline jurisdiction, and only within the urban and rural shoreline environments, conversion from one nonconforming use to another may be approved if the replacement use is more conforming with the intent of the applicable shoreline environment policies of the comprehensive plan, and if the impacts to the shoreline environment from the existing use are reduced by changing the use.

Chapter 16.04 - ENFORCEMENT AND PENALTIES

Sections:
16.04.01 Enforcement Responsibilities Generally.
16.04.02 Penalties.

16.04.01 Enforcement Responsibilities Generally.

It shall be the duty of the administrative official or his designee to enforce the provisions of the Shoreline Master Program pertaining to all development within the jurisdiction of this title. Whenever any development is found to be in violation of this title or a development authorization issued pursuant to this title, the administrative official or his designee may order any work on such development stopped by serving written notice on any person engaged in the wrongdoing or causing such development to be done. The notice shall state the nature of the violation and order all violation activities to stop. The order shall state the corrective actions necessary to fulfill authorization conditions and/or terms of this title and the time within which such corrections shall occur. The order shall identify the parties responsible to take the corrective actions mandated in order. No further development shall be authorized unless and until compliance with the development authorization conditions and/or terms of this title has been achieved to the satisfaction of the administrative official. Violations of this chapter constitute a public nuisance and the City of Selah may take such actions as are authorized in the City of Selah ordinance and State statute to abate such nuisances.

16.04.02 Penalties.

(1) Any person, firm, or corporation violating any of the provisions of this Title, or failing to comply therewith, or violating or failing to comply with any order issued or made pursuant to its provisions shall severally and for each and every violation and non-compliance respectively, be guilty of a misdemeanor or shall be subject to a civil infraction as provided for by Chapter 7.80 RCW or any other remedy provided by law. Any person who violates or fails to comply with any of its requirements shall, upon conviction of a misdemeanor in a court of competent jurisdiction, be fined not more than one thousand dollars or be imprisoned for not more than ninety days, or both, and in addition shall pay all costs and expenses involved in the case. A person found to have committed a civil infraction shall be assessed a monetary penalty. All violations of this chapter shall be denominated Class I civil infractions. The maximum penalty and default amount for a Class I civil infraction shall be two hundred fifty dollars, not including statutory assessments. Each day such violation continues shall be considered a separate offense; however, no additional action will be initiated pending the disposition of any previous suit or complaint.

(2) It shall be the affirmative duty of the City prosecutor's office to seek relief under this section for violations of this title.

(3) Nothing herein shall prevent the City prosecutor's office from taking such other lawful action, legal and/or equitable, as is necessary to prevent or remedy any violation.

(4) In addition to any criminal proceedings brought to enforce this title and in addition to any fine or imprisonment provided for therein, continuing violations of this title may be enjoined or ordered abated in a civil proceeding for injunction or for abatement. For purposes of abatement actions, such violations are declared to be public nuisances. Any person, firm, or corporation violating the provisions of this title shall be liable for all costs of such proceedings, including reasonable attorney's fees and expenses of abatement. The provisions of this subsection are in addition to any other remedies available at law or equity.

(5) Nothing in this Chapter shall be constructed as requiring the City to enforce the prohibitions in this Chapter against all or any properties which may violate the Ordinance. The City has the discretion to enforce and prosecute violations of this ordinance as the City's resources permit. Exercise of such discretion may result in the enforcement and prosecution of a limited number of violations at any given time. Nothing in this Section or the absence of any similar provision from any other City law shall be constructed to impose a duty upon the City to enforce such other provision of law.

Chapter 16.06 - SHORELINE MANAGEMENT

Sections:

ARTICLE I – INTRODUCTION

16.06.01 Purpose and Intent.
16.06.02 Shoreline Jurisdiction.
16.06.03 Shoreline Environments.

ARTICLE II – GENERAL DEVELOPMENT STANDARDS

16.06.09 Shoreline Land Use Table.
16.06.10 Prohibited Uses.
16.06.11 General Policies and Standards.

ARTICLE III – WATER DEPENDENCY DEVELOPMENT STANDARDS AND BUFFER REQUIREMENTS

16.06.12 Use Classifications.
16.06.13 Water-Dependent Uses.
16.06.14 Water-Related Uses.
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ARTICLE IV – SHORELINE MODIFICATION DEVELOPMENT STANDARDS

16.06.17 Roads, Railroads and Parking.
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ARTICLE V – SHORELINE USE DEVELOPMENT STANDARDS

16.06.24 Forest Practices.
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ARTICLE I – INTRODUCTION

16.06.01 Purpose and Intent.

The SMP regulations are intended to carry out the responsibilities imposed on City of Selah by the Shoreline Management Act (RCW 90.58) and its administrative rules (WAC 173-18, WAC 173-20, WAC 173-22, WAC 173-26 and WAC 173-27) insofar as regulations can, and the adoption of these regulations does not remove other responsibilities imposed by the Act. The purposes of the Shoreline Master Program regulations are to:

(1) Promote reasonable and appropriate use of the shorelines that will protect the public and private interest;

(2) Protect against adverse effects to the public health, the land, its vegetation and wildlife and the waters and their aquatic life within City of Selah;

(3) Protect public rights of navigation;

(4) Recognize and protect private property rights consistent with public interest;

(5) Maintain or re-create a high quality of environment along the shorelines;

(6) Preserve and protect fragile natural resources and culturally significant features;

(7) Increase public access to publicly owned areas of the shorelines where increased use levels are desirable;

(8) Protect public and private properties from adverse effects of improper development in hazardous shorelines areas;

(9) Recognize and protect statewide interest;

(10) Give preference to uses that result in long-term over short-term benefits; and

(11) Provide for no net loss of ecological functions from both individual permitted development and individual exempt development.

16.06.02 Shoreline Jurisdiction.

Pursuant to the authority of RCW 90.58.030(2)(f) and WAC 173-22-040(2) and (3), the jurisdictional limits of the Shoreline Master Program within City of Selah for areas that are subject to these regulations, are listed below. The City of Selah has developed maps to generally depict the extent of shoreline jurisdictional boundaries for all shorelines within the City. These maps are for informational and illustrative purposes only and are not regulatory in nature. Where such maps are not available or do not correspond with physical features on the ground, jurisdictional boundaries shall be controlled by the criteria listed below, WAC 173-22, and the Act itself. It is understood when the maps and the actual physical features do not correspond, the physical features will dictate the extent of the jurisdictional boundaries. It is understood that the actual physical features may change. The physical features will dictate the extent of the shoreline jurisdictional boundaries. Shoreline jurisdictional area shall include:

(1) The Naches River and the Yakima River.

(2) Subject to Subsection 7 below, wherever the “floodway” has been established by a flood insurance study prepared by the Federal Emergency Management Agency (FEMA), shorelines jurisdiction shall be the floodway plus 200 feet, measured on a horizontal plane, or the 100-year floodplain, whichever is lesser.

(3) Subject to Subsection 7 below, whenever the 100-year floodplain has been identified by a flood insurance study prepared by the Federal Emergency Management Agency but where no “floodway” has been identified, shorelines jurisdiction shall be the 100-year floodplain boundary or 200 feet, measured in a horizontal plane, from the ordinary high water mark, whichever is greater.

(4) Whenever there are no detailed floodplain or floodway studies, shoreline jurisdiction shall be 200 feet, measured on a horizontal plane, from the ordinary high water mark.

(5) Where a Channel Migration Zone (CMZ) has been identified, and extends beyond the jurisdiction established by subsection (2) above, jurisdiction shall extend to the extent of the CMZ, but not beyond the limits of subsection (3).

(6) Those wetlands and river deltas which are in proximity to and either influence or are influenced by the shorelines. This influence includes, but is not limited to, one or more of the following: periodic inundation, location within a floodplain, or hydraulic continuity.

(7) Under no circumstances shall shoreline jurisdiction be less than 200 feet, measured on a horizontal plane, from the ordinary high water mark of the shoreline water body.

(8) The City may grant relief from shoreline master program development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with criteria and procedures in WAC 173-27-215.

16.06.03 Shoreline Environments.

The following shoreline environments listed below are used as a system of categorizing shoreline areas according to management objectives and the character of the shoreline. The shoreline environments are based on the goals and policies found in the comprehensive plan. Six (6) environments are hereby established, as listed below. It is understood that the actual physical features may change. The physical features shall dictate the extent of the environmental boundaries. These changes are hereby incorporated by reference into this document so that the environments will shift with river changes. Shoreline environments are shown on the map entitled "Shoreline Environment Map of City of Selah." This map is for informational and illustrative purposes only and is not regulatory in nature.

(1) Urban Environment. This environment is characterized by high-intensity land uses, high land values, major public and private capital investments, and/or few biophysical development limitations where intensive development is desirable or tolerable. The management objective is one of optimum future utilization of land and public investment. In view of the intensity of present and future development and consequent population densities, there is a correspondingly high requirement for open space and access to the water in this environment. The basic principle in an urban environment is oriented toward quality of development in harmony with the shoreline. The urban environment should ensure optimum utilization of shorelines occurring within urbanized areas by providing for public access, and by managing development so that it enhances and maintains the shorelines for a multiplicity of uses.(2) Rural Environment. This environment is characterized by agricultural and recreational uses, moderate land values, moderate public and private capital investment (roads, utilities, etc.), and/or some biophysical development limitations. The management objectives are to protect agricultural land, maintain open space, and provide for recreational uses compatible with agricultural production.

(3) Conservancy Environment. This environment is characterized by very low intensity land uses primarily related to natural resources use and diffuse recreational development, relatively low land values, relatively minor public and private capital investment, and/or relatively major biophysical development limitations. Management objectives are oriented toward establishing a balance between sustained-yield natural resource utilization and low density recreational uses in this environment, with restriction of development in hazardous areas.

(4) Natural Environment. This environment is characterized by severe biophysical limitations, presence of some unique natural, historic or archeological features intolerant of intensive human use, and/or its value is retained only in its natural condition. Management objectives are oriented toward preserving unique features, restricting activities that may degrade the actual or potential value of this environment, and severely restricting development in hazardous areas.

(5) Urban Conservancy Environment. This environment is characterized by low intensity land uses primarily related to public access, diffuse recreational development, and relatively major biophysical development limitations. This environment should 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. The urban conservancy environment designation should be assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring the ecological functions of the area and that lie in incorporated municipalities, urban growth areas, or commercial or industrial rural areas of more intense development.

(6) Floodway/Channel Migration Zone Environment. This environment is characterized by deep/fast floodwaters and a shifting channel, and is the most hazardous shoreline area. The floodway/channel migration zone environment should protect the water areas, islands and associated overflow channels found within designated floodways, and mapped channel migration areas. This environment acknowledges the river's need to move within parts of its

floodplain, and emphasizes the preservation of the natural hydraulic, geologic and biological functions of the City's shorelines that are constrained by severe biophysical limitations.

ARTICLE II – GENERAL DEVELOPMENT STANDARDS

16.06.09 Shoreline Land Use Table.

Table 16.06.09 lists the uses and activities for each shoreline environmental designation that are allowed by substantial development permit and/or conditional use permit, or are prohibited. Such uses shall be processed in accordance with chapter 16.03 (Permit and Review Procedures). This table does not change those situations of when this title does not apply to a development (16.01.05, Applicability), or when a use or activity listed as needing a substantial development permit may qualify for an exemption instead (16.03.09, Exemptions).

Definitions for some uses are provided in chapter 16.02. The provisions in Table 16.06.09 apply to specific common uses and types of development only to the extent they occur within shoreline jurisdiction. Symbols in the table have the following meanings:

- (S) means a substantial development permit is required;
- (C) means a conditional use permit is required;
- (X) means the use is prohibited;
- (N/A) means the entry is not applicable and the entry in the activity column provides information to redirect the reader to another activity.

Table 16.06.09

Activity	Environments					
S = Substantial development C = Conditional use X = Prohibited N/A = Not applicable Review section 16.01.05, Applicability, to see if this Title applies to the project. Review section 16.03.09, Exemptions to see if the project qualifies for an exemption from a substantial development permit. For existing uses that are prohibited see section 16.03.26, Nonconforming uses and facilities.	**Urban**	**Rural**	**Conservancy**	**Natural**	**Floodway/ CMZ**	**Urban Conservancy**
GENERAL						
Activities listed in 16.06.10, Prohibited uses	X	X	X	X	X	X
AGRICULTURE						
Agriculture, including accessory agricultural structures, but excluding grazing	S	S	C	X	C	S
Grazing, also see 16.03.13(2)(b), Development Authorization, for development standards	S	S	S	S	S	S
Confinement feeding options (CFO)	X	C	X	X	X	X
Ag.-related industry (feed mills, processing/packing plants, storage facilities, etc.)	C	C	X	X	X	C
AQUACULTURE						

Activity	Environments					
S = Substantial development **C = Conditional use** **X = Prohibited** **N/A = Not applicable** **Review section 16.01.05, Applicability, to see if this Title applies to the project.** **Review section 16.03.09, Exemptions to see if the project qualifies for an exemption from a substantial development permit.** **For existing uses that are prohibited see section 16.03.26, Nonconforming uses and facilities.**	**Urban**	**Rural**	**Conservancy**	**Natural**	**Floodway/ CMZ**	**Urban Conservancy**
Rearing	C	S	C	X	C	C
Processing	C	S	X	X	X	C
Packing and storage	C	S	X	X	X	C
FOREST PRACTICES UNDER STATE PERMIT						
All federal forest practices or nonfederal forest practices meeting the criteria below: 1. Harvest/treat at least 5 acres of forestland, or supporting such an operation 2. All harvesting w/in 200' of OHWM of shoreline of statewide significance uses methods meeting RCW 90.58.150 (selective harvest) 3. Activities are not associated with a conversion option harvest 4. Approved under a WDNR Forest Practices Permit 5. Not associated with a harvest under a Class IV – General application to convert forest land to nonforestry use	S	S	S	C	S	S
Nonfederal forest practices not meeting criteria (1), (2), or (3) above	C	C	C	C	C	C
Nonfederal forest practices not meeting criteria (4) above (Class 1 forest practices, activities not requiring WDNR review, etc.) shall be reviewed as separate uses or activities	N/A	N/A	N/A	N/A	N/A	N/A
Nonfederal forest practices not meeting criteria (5) above shall be reviewed as the new proposed use	N/A	N/A	N/A	N/A	N/A	N/A
MINING						
Surface mining	C	C	C	X	X	C
Underground mining	X	X	X	X	X	X
Mining for habitat restoration	S	S	S	S	S	S
ARCHEOLOGICAL						
Interpretive center	S	C	C	X	X	S
Restoration of historic structures	S	S	C	C	C	S
Archeological excavation	C	C	C	C	C	C
RESIDENTIAL USE						
Cabin (see definition; 800 sq. ft.) or single improved RV site where other single-family residences are not permitted	X	X	X	X	X	S
Single-family residence, including: – family home services – accessory apartment – mobile home for aged/infirm relative (or equivalent uses listed in the zoning ordinance)	S	S	S	X	X	X
Duplex	S	S	X	X	X	X

Activity	Environments					
S = Substantial development **C = Conditional use** **X = Prohibited** **N/A = Not applicable** **Review section 16.01.05, Applicability, to see if this Title applies to the project.** **Review section 16.03.09, Exemptions to see if the project qualifies for an exemption from a substantial development permit.** **For existing uses that are prohibited see section 16.03.26, Nonconforming uses and facilities.**	**Urban**	**Rural**	**Conservancy**	**Natural**	**Floodway/ CMZ**	**Urban Conservancy**
Multifamily	C	X	X	X	X	X
Rooming and boarding houses	C	X	X	X	X	X
Fraternity or sorority houses	C	X	X	X	X	X
Manufactured home park or subdivision outside floodplain	C	X	X	X	X	X
Manufactured home park or subdivision w/in floodplain	X	X	X	X	X	X
RV park with units remaining year-round – Review as mobile home park	N/A	N/A	N/A	N/A	N/A	N/A
RV park with units not remaining year-round – See recreational use section, moderate intensity	N/A	N/A	N/A	N/A	N/A	N/A
Houseboats and over-water residential uses	X	X	X	X	X	X
COMMERCIAL AND COMMUNITY SERVICE USES						
Large commercial uses (more than 1/2 acre of use area) of a water-oriented nature, including commercial boating facilities, marinas, and extended moorings. Boat launches shall be treated as a recreational use	C	C	C	X	X	C
Small commercial uses (1/2 acre or less of use area) of a water-oriented nature	S	S	C	X	X	S
Nonwater-oriented commercial uses, except for instances below	X	X	X	X	X	X
Nonwater-oriented uses, when set back from OHWM or wetland edge by either a public right of way or 100'+ of a separate parcel	C	C	C	X	X	C
Nonwater-oriented uses in a mixed use project that includes a water dependent commercial, industrial, aquaculture, or recreational use	C	C	C	X	X	C
Events and temporary uses involving public interest (see definition) that do not impair the shoreline environment. Note: Definition to be added to administrative sections	C	C	C	C	C	C
INDUSTRIAL						
Water-oriented uses	C	C	X	X	X	X
Nonwater-oriented uses, except for instances below	X	X	X	X	X	X
Nonwater-oriented uses, when set back from the OHWM or wetland edge by either a public right of way or 100'+ of a separate parcel	C	C	X	X	X	X
Nonwater-oriented uses in a mixed use project that includes a water dependent commercial, industrial, aquaculture, or recreational use	C	C	X	X	X	X
RECREATION						
Commercial components of the use that are not explicitly related to the recreation operation must also conform to the commercial section of this table	N/A	N/A	N/A	N/A	N/A	N/A
Indoor recreation – Reviewed as commercial use; see that section of table	N/A	N/A	N/A	N/A	N/A	N/A

Activity	Environments					
S = Substantial development **C = Conditional use** **X = Prohibited** **N/A = Not applicable** **Review section 16.01.05, Applicability, to see if this Title applies to the project.** **Review section 16.03.09, Exemptions to see if the project qualifies for an exemption from a substantial development permit.** **For existing uses that are prohibited see section 16.03.26, Nonconforming uses and facilities.**	**Urban**	**Rural**	**Conservancy**	**Natural**	**Floodway/ CMZ**	**Urban Conservancy**
Boat launches. Other boating facilities and marinas are reviewed as commercial uses	C	C	C	C	C	C
Commercial motorized boat recreation tour routes (related facilities are reviewed as commercial uses and boating facilities)	C	C	C	C	C	C
State owned recreation facilities and ecological study areas	S	S	C	C	C	S
Outdoor recreation of a nonwater-oriented nature (sports complex, organized sport fields, golf course)	C	C	C	X	X	C
Hi-intensity outdoor recreation of a water-oriented nature (urban area parks, white water parks, etc.)	S	C	C	X	C	S
Moderate-intensity outdoor recreation of a water-oriented nature (use areas with minor structures and improvements, such as campgrounds, picnic facilities, hiking trails, swimming beaches, fishing sites, nature/history interpretive centers); RV park/camping with units not remaining year-round is included in this category (also see residential RV uses)	S	S	S	X	C	S
Low-intensity outdoor recreation of a water-oriented nature (unimproved use areas, such as hiking or nature trails, primitive camping areas); an unimproved personal camping and recreation site is included in this category	S	S	S	C	S	S
Very-low-intensity recreation (wildlife viewing, scenic vistas, fishing, hunting, rafting, walking, etc.). See section 16.01.05, Applicability, for activities not subject to this title	N/A	N/A	N/A	N/A	N/A	N/A
Events and temporary uses involving public interest (see definition) which may interfere with normal public use, that do not impair the shoreline environment	C	C	C	C	C	C
TRANSPORTATION & PARKING						
Access roads serving permitted uses	S	S	S	C	C	S
Highways and freeways	C	C	C	X	C	C
Railways	C	C	C	X	C	C
Transportation maintenance facilities	C	C	C	X	X	C
Parking for authorized use – Reviewed with authorized use	N/A	N/A	N/A	N/A	N/A	N/A
Park and ride lots and similar stand alone parking facilities	X	X	X	X	X	X
UTILITIES						
Utility services accessory to individual projects undergoing shoreline review – review w/ project	N/A	N/A	N/A	N/A	N/A	N/A
Utility services to projects outside shoreline jurisdiction	S	S	S	C	C	S
Land/air/water monitoring station	S	S	S	S	S	S
Utility transmission lines, except as noted below	X	X	X	X	X	X

Activity	Environments					
S = Substantial development **C = Conditional use** **X = Prohibited** **N/A = Not applicable** **Review section 16.01.05, Applicability, to see if this Title applies to the project.** **Review section 16.03.09, Exemptions to see if the project qualifies for an exemption from a substantial development permit.** **For existing uses that are prohibited see section 16.03.26, Nonconforming uses and facilities.**	**Urban**	**Rural**	**Conservancy**	**Natural**	**Floodway/ CMZ**	**Urban Conservancy**
Utility transmission lines on shorelands, where no other feasible option is available	C	C	C	C	C	C
Production and processing facilities of a water-oriented nature, including power generation, water and wastewater treatment facilities	C	C	C	C	C	C
Production and processing facilities of a nonwater-oriented nature, except as noted below	X	X	X	X	X	X
Production and processing facilities of a nonwater-oriented nature, where no other feasible option is available	C	C	C	C	C	C
Storage/collection of garbage cans/dumpsters for individual use	S	S	S	S	S	S
Solid waste transfer station/drop box	C	C	C	X	X	X
Storage/disposal of solid waste, including landfills, sewage sludge, and agricultural waste. For existing uses, see section 16.03.26, Nonconforming Uses and Facilities	X	X	X	X	X	X
SIGNS Note: signs must also conform to the local sign ordinance						
Blinking or revolving signs	X	X	X	X	X	X
Signs obstructing views of shorelines and scenic vistas from public rights-of-way	X	X	X	X	X	X
On-premises for authorized use	S	S	S	S	S	S
Off-premises (except temporary and information signs)	S	X	X	X	X	X
Temporary signs (election signs; sale, rental, or lease signs on real estate; etc.) are not considered development	N/A	N/A	N/A	N/A	N/A	N/A
Information signs (directional, landmark, trail marker, etc.)	S	S	S	S	S	S
INSTREAM STRUCTURES						
In-stream elements for shore stabilization, roads/bridges, habitat restoration, piers/docks/marinas, and fill are reviewed as those activities	N/A	N/A	N/A	N/A	N/A	N/A
Construction that does not impound water (but may include stream bed manipulation); including whitewater recreation structures and flow gauging stations	C	C	X	X	X	X
Construction that impounds water or increases the height of impounded water	C	C	C	C	X	C
PIERS AND DOCKS						
Pier/dock (including for over-water structures), except for instances below	X	X	X	X	X	X
Pier/dock for water dependent commercial, industrial, aquaculture, or recreational use; or public access; or a single-family residence facility to access watercraft	S	S	C	X	X	S
DREDGING						
Dredging (including obtaining minerals, aggregate, or landfill material), except for instances below	X	X	X	X	X	X

Activity	Environments					
S = Substantial development **C = Conditional use** **X = Prohibited** **N/A = Not applicable** **Review section 16.01.05, Applicability, to see if this Title applies to the project.** **Review section 16.03.09, Exemptions to see if the project qualifies for an exemption from a substantial development permit.** **For existing uses that are prohibited see section 16.03.26, Nonconforming uses and facilities.**	**Urban**	**Rural**	**Conservancy**	**Natural**	**Floodway/ CMZ**	**Urban Conservancy**
Dredging for – water dependent use – public access	C	C	C	C	C	C
Dredging to modify channels or basins (excluding maintenance) for existing navigation uses	S	S	S	X	X	S
Dredging for habitat restoration	S	S	S	S	S	S
FILLING & DREDGE MATERIAL DISPOSAL						
Fill within the OHWM, except for instances below	X	X	X	X	X	X
Fill within the OHWM for – water dependent use – public access – expansion of existing transportation system of state-wide significance – dredge material placement for habitat restoration project	C	C	C	C	C	C
– beaches	C	C	C	X	X	C
Fill (nondredged) within the OHWM for habitat restoration	S	S	S	S	S	S
Fill outside the OHWM, except for instances below	X	X	X	X	X	X
Fill outside the OHWM for site development of an approved use	S	S	S	C	C	S
SHORE STABILIZATION						
Nonstructural stabilization measures (revegetation, wood debris placement, sediment supplementation, bio-engineering, etc.). Also see section 16.03.07(15) for the restoration exemption	S	S	S	S	S	S
On-land stabilization structures, except for instances below	X	X	X	X	X	X
On-land stabilization structures (bulkheads, retaining walls, dikes, levees, rip-rap, etc.) demonstrating necessity per 16.06.19(11)(e). Also see section 16.03.07 for residential and bulkhead exemptions	C	C	C	C	C	C
In-water stabilization structures, except for instances below	X	X	X	X	X	X
In-water stabilization structures (breakwaters, jetties, groins, weirs, bank barbs, etc.) demonstrating necessity per 16.06.19(11)(e) for – water dependent use – public access – specific public purposes – in support of bank stabilization	C	C	C	C	C	C
In-water stabilization structures for habitat restoration demonstrating necessity per 16.06.19(11)(e). Also see section 16.03.07(15) for the restoration exemption	S	S	S	S	S	S

16.06.10 Prohibited Uses.

The following uses and activities are prohibited within shoreline jurisdiction:

(1) Storage, handling, and disposal of material or substances that are dangerous or hazardous with respect to water quality and life safety;

(2) Confinement feeding operations including livestock feedlots and dairy confinement areas;

(3) The placement of mining tailings, spoilage, and mining waste materials, except for that associated with the mining of gravel;

(4) The draining or filling of a wetland, lake or pond, except as provided for in Section 16.06.21 (Filling);

(5) The removal and transport of material for fill outside of the stream corridor;

(6) Site runoff storage ponds, manure stockpiles and manure disposal, holding tanks and ponds, and other similar waste disposal facilities. This provision does not include municipal wastewater lines or septic systems approved by a local or state agency with authority to permit such facilities;

(7) Solid waste disposal sites;

(8) Automobile wrecking yards;

(9) Fill for the sole purpose of increasing land area within the shorelines;

(10) Within shoreline jurisdiction, those uses not allowed in particular shoreline environments as provided in section 16.06.09 (Shoreline Land Use Table).

16.06.11 General Policies and Standards.

The following policies and standards shall apply to any development, construction, or use carried out within shoreline jurisdiction:

(1) The ordinary high water mark of a stream or lake, the edge of a wetland, and the outside edges of stream and/or wetland buffers shall be marked on the ground before any development, construction, or use is initiated.

(2) Existing riparian vegetation and any unique or sensitive vegetative species identified on the project site within the stream corridor shall be disturbed to the minimum extent possible.

(3) Nesting areas and other sensitive wildlife habitat identified within a stream corridor shall be disturbed to the minimum extent possible.

(4) Projects within the stream corridor shall be scheduled to occur at times and during seasons having the least impact to spawning, nesting, or other sensitive wildlife activities. Scheduling recommendations from the appropriate state and/or federal agency may be considered.

(5) Stormwater and Erosion Control. Developments that obtain a stormwater permit approved by a local, state or federal agency, and transportation projects using stormwater manuals that are deemed equivalent to the Eastern Washington Stormwater Manual, are exempt from the requirements below.

(a) Excavation, grading, cut/fills, compaction, and other modifications which contribute to erosion of upland soils shall be confined to the minimum necessary to complete the authorized work and avoid increased sediment load.(b) The removal of ground-cover vegetation, excavation, and grading shall be scheduled for periods when soils are the least vulnerable to erosion, compaction and movement unless suitable protective measures are used to prevent erosion.

(c) The removal of ground-cover vegetation, excavation, and grading shall be scheduled to ensure the minimal duration of exposed, unprotected soils.

(d) Increases in impervious surface area, compaction of soil, changes in topography, and other modifications of land within a stream corridor which are determined will permanently increase stormwater and

meltwater runoff into stream channels, drainage ways, and conduits, shall provide on-site or off-site facilities for the detention, control, and filtration of such increases.

(e) The discharge point for controlled stormwater and meltwater runoff and other outfall shall be designed and constructed to avoid causing erosion through the use of native riparian vegetation where possible or by reducing velocity, use of rock spillways, riprap, splash plates, or other demonstrably effective means.

(f) Matting or approved temporary ground cover shall be used to control erosion until natural vegetative ground cover is successfully established.

(6) Development, construction, and uses shall not directly or indirectly degrade surface water and groundwater through the introduction of nutrients, fecal coliform, toxins, and other biochemical substances.

(7) Prior to the approval of development, construction, or uses within a designated stream corridor, any existing source of biochemical or thermal degradation identified as originating on the project property or on contiguous properties of the same ownership shall be corrected.

(8) Facilities which use fertilizers, pesticides or herbicides shall use landscaping, low-risk products, application schedules, and other protective methodology to minimize the surface and subsurface transfer of biochemical materials into the stream corridor.

(9) Modifications to natural channel gradient, channel morphology, drainage patterns, and other stream features shall not permanently alter or obstruct the natural volume or flow of surface waters.

(10) Development, construction, or uses within the stream corridor shall not alter or divert flood flows causing channel shift or erosion, increase or accelerate the flooding of upstream or downstream flood hazard areas, or otherwise threaten public or private properties.

(11) Wells located within a stream corridor shall be protectively lined and installed in a deep aquifer with an acceptable minimum hydraulic continuity with either surface waters or a shallow aquifer.

(12) Structures placed in close proximity to the outer edge of bends in stream channels identified as having a high potential to meander shall be located to minimize the hazard from stream undercutting and stream bank erosion stemming from potential future stream migration.

(13) Adjacent communities and the Department of Ecology shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Emergency Management Agency.

(14) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(15) Development, construction, or uses within the hydrologically related critical area that would contribute to the degradation of the functions and values shall be avoided or mitigated using mitigation sequencing as outlined in section 16.03.10 (Mitigation Requirements).

(16) Development shall not obstruct, cut off, or isolate stream corridor features.

(17) Nothing in these regulations shall constitute authority of any person to trespass or in any way infringe upon the rights of private ownership.

(18) If archaeological resources are uncovered during excavation, developers and property owners shall immediately stop work and notify the City of Selah, the Washington State Office of Archaeology and Historic Preservation and any affected Indian tribes. Archaeological sites are subject to RCW 27.44 (Indian graves and records) and RCW 27.53 (Archaeological sites and records), and development or uses that may impact such sites shall comply with WAC 25-48 (Archaeological Excavation and Removal Permit).

(19) The provisions of SMC 11.19 (Flood Damage Prevention) and 11.50.140 (Frequently Flooded Areas) shall also apply to the development of lots and the placement, construction, or installation of structures in floodways and floodplains.

(20) Any portion of the vegetative buffer temporarily damaged or disturbed as a result of construction activities (excluding approved permanent use areas) shall be repaired at the completion of construction using reclamation standards in section 16.06.23 (Reclamation).

(23) Changing from an existing use or development which does not meet the provisions of this chapter to a new use shall be reviewed in light of the following:

(a) The conversion will demonstrably reduce impacts to stream corridor and other critical area features; and

(24) Additional General Shoreline Standards. The requirements below shall apply to all activities within shoreline jurisdiction.

(a) Individual projects or actions that, if continued as a pattern, would accumulatively result in the degradation or impairment of the shoreline environment shall be avoided.

(b) Individual projects or actions shall provide for no net loss of shoreline ecological functions.

(c) Shoreline development shall not interfere with public access and enjoyment of any nearby publicly owned land areas.

(d) Outdoor advertising signs must conform to size, spacing and lighting provisions of the Washington State Scenic Vistas Act of 1971, where applicable.

(e) There shall be a thirty-five (35) foot maximum building height for all structures, except that utility towers and poles, dams, concrete and asphalt batching plants, water treatment towers, wastewater treatment facilities and bridges are not required to meet this standard, and specific height limitations for residential structures are as follows:

(i) Twenty-five feet above average grade level in the conservancy environment;

(ii) Twenty feet above average grade level in the natural environment;

(iii) Twenty-five feet above average grade level in the urban conservancy environment;

(iv) Twenty feet above average grade level in the floodway/channel migration zone.

(f) New development within shoreline jurisdiction shall be located and designed to:

(i) Avoid the need for future shore stabilization, to the extent feasible;

(ii) Avoid or, if that is not possible, to minimize the need for new and maintenance dredging;

(iii) Assure that subdivision lots created will not require shore stabilization in order for reasonable development to occur. The standards should be accomplished using geotechnical analysis of the site and shoreline characteristics, as provided in section 16.06.19(11) (Additional Shoreline Standards for Shore Stabilization);

(iv) Setback new development on steep slopes or bluffs sufficiently to ensure that shore stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis, as provided in section 16.06.19(11) (Additional Shoreline Standards for Shore Stabilization);

(v) New development that would require shore stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

ARTICLE III – WATER DEPENDENCY DEVELOPMENT STANDARDS AND BUFFER REQUIREMENTS

16.06.12 Use Classifications.

For purposes of this chapter, the components of any development, construction, or use requiring a critical area development authorization shall be classified as provided below, and shall conform with the development standards applicable to the classification provided in 16.06.13 through 16.06.15 except for those listed in Section 16.03.05 (Minor Activities Allowed without a Permit or Exemption):

(1) Water-oriented uses are one of the following three (3) categories of uses:

(a) Water-dependent uses include dams, water diversion facilities, marinas, boat launching facilities, water intakes and outfalls, aquaculture, log booming, stream and wetland crossings for roads and railroads, stream and wetland crossings for utilities, swimming beaches, fishing sites, in-water or on-land shore stabilization structures, livestock watering sites, and other uses that cannot exist in any other location and are dependent on the water by reason of the intrinsic nature of their operations. This provision applies only to the specific portion of a project that is demonstrably dependent upon the water or shore.

(b) A water-related use is one not intrinsically dependent on a waterfront location but whose economic viability is enhanced by a waterfront location either because it requires large quantities of water, or because it provides services for water dependent uses and the proximity to its customers makes such services less expensive and/or more convenient. Examples would include thermal power plants, wastewater treatment plants, water processing and treatment plants, support services for fish hatcheries or aquaculture, fly shops and boat rental shops.

(c) A water-enjoyment use is a recreational or other use that facilitates public access within shoreline jurisdiction as a primary characteristic of the use, or 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. Within shoreline jurisdiction 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 foster shoreline enjoyment in order to qualify as a water-enjoyment use within shoreline jurisdiction. Examples include recreational uses orientated to the shoreline's water features, and restaurants with water viewing.

(2) Nonwater-oriented uses include any use not qualifying as uses in subsection (1) above.

16.06.13 Water-Dependent Uses.

The following provisions shall apply to water-dependent uses:

(1) Structures shall be clustered at locations on the water's edge having the least impact to the surface water and shore.

(2) Use areas and structures which require direct shore locations shall be located and constructed to minimize impacts to the shore area and the vegetative buffer specified in Section 16.06.16 (Vegetative Buffers).

(3) Use areas and structures requiring direct shore locations shall minimize any obstruction or impairment of normal public navigation of the surface water.

16.06.14 Water-Related Uses.

The following provisions shall apply to the water-related uses:

(1) Structures and use areas shall be located as far landward from the ordinary high water mark or wetland edge as is possible and still preserve the essential or necessary relationship with the surface water.

(2) Structures and use areas shall not be located within the vegetative buffer specified in Section 16.06.16 (Vegetative Buffers) except where existing development or the requirements associated with the use make such a location unavoidable.

16.06.15 Water-Enjoyment and Nonwater-Oriented Uses.

The following provisions shall apply to water enjoyment and nonwater-oriented uses:

(1) Structures and use areas shall be set back so as not to be located within the vegetative buffer specified in Section 16.06.16 (Vegetative Buffers).

(2) Construction abutting the vegetative buffer specified in Section 16.06.16 (Vegetative Buffers) shall be designed and scheduled to ensure there will not be permanent damage or loss of the vegetative buffer.

16.06.16 Vegetative Buffers.

(1) Establishment. There is hereby established a system of vegetative buffers that are necessary to protect the ecological functions and values of shorelines. For shoreline streams and lakes, the vegetative buffer shall be 100 feet.

(a) Vegetative buffers shall be measured from the Ordinary High Water Mark (OHWM) for streams, lakes and ponds.

(b) Buffer width may be reduced through the Variance permit process.

(c) The adequacy of these standard buffer widths presumes the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the shoreline functions and values at the time of the proposed activity. If the vegetation is degraded, then no adjustment to the buffer width should be granted and re-vegetation should be considered. Where the use is being intensified, a degraded buffer should be re-vegetated to maintain the standard width.

ARTICLE IV – SHORELINE MODIFICATION DEVELOPMENT STANDARDS

16.06.17 Roads, Railroads and Parking.

The following provisions shall apply to the location and construction of roads, railroads and parking within shorelines:

(1) Roads and railroads shall not be located within a designated stream corridor except where it is necessary to cross the corridor, or where existing development, topography, and other conditions preclude locations outside the stream corridor.

(a) Construction of roadways across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.

(b) Roadways that must run parallel to stream or wetland edges shall be along routes having the greatest possible distance from stream or wetland and the least impact to the corridor.

(c) Roadways within the stream corridor shall not hydrologically obstruct, cut-off or isolate stream corridor features.

(2) Material excavated from the roadway area to achieve the design grade shall be used as fill where necessary to maintain grade, or shall be transported outside the corridor.

(3) Necessary fill to elevate roadways shall not impede the normal flow of floodwaters or cause displacement that would increase the elevation of flood waters such that it would cause properties not in the floodplain to be flood-prone.

(4) Spoil, construction waste, and other debris shall not be used as road fill or buried within the stream corridor.

(5) Bridges and water-crossing structures shall not constrict the stream channel or impede the flow of the ordinary high water, sediment and woody debris.

(6) Natural stream channels and drainage ways shall be preserved through the use of bridges for crossings, unless the use of culverts is demonstrated to be the only technically feasible means for crossing. The use of bridges shall be the preferred means to preserve natural streams and drainageways. Where bridges are not feasible, large, natural bottom culverts, multi-plate pipes and bottomless arches shall be used.

(7) The alignment and slope of culverts shall parallel and match the natural flow of streams or drainage ways, unless doing so conflicts with subsections (1) and (2), and shall be sized to accommodate ordinary high water, and shall terminate on stable, erosion-resistant materials.

(8) Where fish, amphibian or other wildlife passage is present, culverts shall be designed and constructed to specifications provided through the Washington State Aquatic Habitat Guidelines or a comparable source of expertise.

(9) At least one end of a wood stringer bridge shall be anchored to prevent it from being washed away during high water.

(10) Roads must be designed and constructed using established flood resistant design and construction methods when they may be subject to damage by flood waters.

(11) Roads and bridges within floodways must meet the requirements of section 16.05.36.010 subsections (2) and (7).

(12) Additional Shoreline Standards for Roads, Railroads and Parking. The standards in this section only apply to new uses within shoreline jurisdiction.

(a) Parking areas shall be located upland of the areas they serve.

(b) Owners of two or more adjoining uses, structures or parcels of land may utilize jointly the same parking area when the hours of operation do not overlap.

(c) A conditional use permit for roads, railroads or parking areas must demonstrate through social, economic, environmental, and engineering studies that a shoreline location is the most feasible of the available options.

16.06.18 Utility Transmission Lines and Facilities.

The following provisions shall apply to the location, construction, or installation of utility transmission lines and facilities (such as those for wastewater, water, communication, natural gas, etc.) within a designated hydrologically related critical area:

(1) Utility transmission lines and facilities shall be permitted within the stream corridor only where it is necessary to cross the corridor or where existing development, topography, and other conditions preclude locations outside the stream corridor.

(a) Utility transmission lines and facilities across stream corridors shall be by the most direct route possible having the least impact to the stream corridor.

(b) The construction of utility transmission lines and facilities within a stream corridor shall be designed and located to ensure minimum disruption to the functional properties specified under Section 16.06.05 (Functional Properties) of this title.

(2) Utility lines under streams and wetlands shall be placed in a sleeve casing to allow easy replacement or repair with minimal disturbance to the stream corridor.

(3) Buried utility transmission lines crossing a stream corridor shall be buried a minimum of four feet below the maximum scour or 1/3 of the bankfull depth of the waterway, whichever is greater, and for a similar depth below any associated floodway and floodplain to the maximum extent of potential channel migration as determined by hydrologic analysis.

(4) Wherever possible, new aboveground installations shall use available, existing bridge and utility locations and stream corridor crossings as opposed to creating new locations and stream corridor crossings.

(5) Aboveground electrical support towers and other similar transmission structures shall be located as far upland as is practical.

(6) Transmission support structures shall be located clear of high flood velocities, located in areas of minimum flood depth which require the least floodproofing, and shall be adequately floodproofed.

(7) Underground utility transmission lines shall be constructed so they do not alter, intercept or dewater groundwater patterns that support streams, wetlands and hyporheic flow.

(8) All new and replacement water supply systems and wastewater systems within a special flood hazard area must meet the requirements of SMC 11.19 and 11.50.140.

(9) Utility transmission lines within the floodway and floodway fringe shall meet the standards of SMC 11.19 and 11.50.140..

(11) Additional Shoreline Standards for Utility Transmission Lines and Facilities. The requirements below shall apply to all utility transmission lines and facilities within shoreline jurisdiction. Utility services to individual projects undergoing shoreline review, including those where the primary use may be in a different shoreline environment than the utility service shall not require separate substantial development permits for utility service installations, but are subject to all of the provisions in 16.06.18 (Utility Transmission Lines and Facilities), except those listed below. Utility service to projects outside shoreline jurisdiction are subject to normal shoreline permitting, and are subject to all of the provisions in 16.06.18 (Utility Transmission Lines and Facilities), except those listed below.

(a) Where feasible utilities shall be placed underground unless such undergrounding would be economically or technically prohibitive.

(b) New utility facilities shall be designed and located to preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses, especially recreation, residential and public access.

(c) Expansion, updating, and maintenance of existing facilities is allowed but shall be designed to be located to avoid adverse impacts to shoreline resources as much as possible.

(d) Permit applications shall meet the following submittal review standards:

(i) Applications shall submit studies (social, economic, environmental, engineering, etc.) to demonstrate that a shoreline location is the most feasible of the available options.

(ii) Applications to locate transmission lines shall submit a location plan that shows existing utility routes in the vicinity of the proposed transmission line. Failure of utility lines to follow existing routes, where feasible, shall cause denial of the application.

(iii) Applications shall include a reclamation plan that provides for re-vegetation and protection of shoreline areas from erosion and siltation. A re-vegetation or erosion protection plan judged by the administrative official to be insufficient for the protection or restoration of the shoreline environment shall cause denial of the application.

16.06.19 Shore Stabilization.

The following provisions shall apply to shore stabilization projects:

(1) Shore stabilization projects shall be allowed only where there is evidence of erosion which clearly represents a threat to existing property, structures, or facilities, and which stabilization will not jeopardize other upstream or downstream properties.

(2) Stabilization projects shall be developed under the supervision of, or in consultation with, agencies or professionals with appropriate expertise.

(3) Stabilization projects shall be confined to the minimum protective measures necessary to protect the threatened property.

(4) The use of fill to restore lost land may accompany stabilization work, provided the resultant shore does not extend beyond the new ordinary high water mark, finished grades are consistent with abutting properties, a restoration plan is approved for the area, and the fill material is in compliance with Section 16.06.21 (Filling).

(5) Stabilization projects shall use design, material, and construction alternatives that do not require high or continuous maintenance and which prevent or minimize the need for subsequent stabilization to other segments of the shore. Junk car bodies and other unsuitable debris are not to be used in shore stabilization projects.

(6) Stream bank and lakeshore protection shall be accomplished using bioengineered (biotechnical) designs employing living plant materials as primary structural components of resistance to erosion and mass wasting, unless a report prepared by a qualified engineer experienced in soil bioengineering (biotechnical) and shoreline protection demonstrates that conventional structural armoring is the only feasible means of stabilizing the subject stream bank or lakeshore.

(7) Applications to construct or enlarge dikes or levees shall meet the requirements of SMC 11.19.

(8) Revetments and bulkheads shall be no higher than necessary to protect and stabilize the shore.

(9) Breakwaters shall be constructed of floating or open-pile designs rather than fill, riprap, or other solid construction methods.

(10) All new flood control projects shall define maintenance responsibilities and a funding source for operations, maintenance, and repairs for the life of the project.

(11) Additional Shoreline Standards for Shore Stabilization. The requirements below shall apply to all shore stabilization activities within shoreline jurisdiction.

(a) Where feasible, dikes and levees shall be located outside of the floodway or channel migration zone of the river or stream in order to minimize any attendant increase in water stage and stream flow velocity over existing conditions.

(b) Riprapping and other shore stabilization measures shall be designed, located, and constructed in such a manner as to minimize the disruption of natural channel characteristics.

(c) Where a geotechnical analysis or report is required, it shall meet the provisions of 16.03.18(6) (flood hazard reduction and shore modification in shoreline jurisdiction).

(d) When structural flood hazard reduction and shore stabilization measures are necessary, they shall be located and designed to meet the provisions of 16.03.18(6) (flood hazard reduction and shore modification in shoreline jurisdiction).

(e) Demonstration of Necessity. New structural shore stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:

(i) New or enlarged structural stabilization measures for an existing primary structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shore stabilization.

(ii) Erosion control structures in support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:

(A) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

(B) Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

(C) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves.

(iii) Erosion control structures in support of water-dependent development when all of the conditions below apply:

(A) The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

(B) Nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient.

(C) The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.

(f) Erosion control structures to protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to the Model Toxics Control Act (70.105D RCW) shall not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that demonstrates that nonstructural measures such as planting vegetation, or installing on-site drainage improvements, is not feasible or not sufficient.

(g) An existing shore stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion. For purposes of this section standards on shore stabilization measures, “replacement” means the construction of a new structure to perform a shore stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shore stabilization measures shall be considered new structures under paragraph (e) above.

(i) Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shore stabilization structure.

(ii) Soft shore stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.

16.06.20 Dredging and Excavation.

The following provisions shall apply to dredging and excavation within a designated hydrologically related critical area:

(1) Dredging in surface waters shall be allowed only where necessary because of existing navigation needs, habitat restoration or improvement, maintenance or construction of water-dependent uses.

(2) Dredging and excavation shall be confined to the minimum area necessary to accomplish the intended purpose or use.

(3) Hydraulic dredging or other techniques that minimize the dispersal and broadcast of bottom materials shall be preferred over agitation forms of dredging.

(4) Curtains and other appropriate mechanisms shall be used to minimize widespread dispersal of sediments and other dredge materials.

(5) Entries across shore and wetland edges to accomplish dredging or excavation shall be confined to the minimum area necessary to gain entry and shall be confined to locations with the least potential for site disturbance and damage.

(6) Dredging and excavation shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes.

(7) Dredge spoils are also considered fill, and shall not be deposited within the stream except where such deposit is in accordance with approved procedures intended to preserve or enhance wildlife habitat, natural drainage, or other naturally occurring conditions.

(8) Additional Shoreline Standards for Dredging and Excavation. The requirements below shall apply to all dredging and excavation activities within shoreline jurisdiction.

(a) All applications for substantial development permits that include dredging shall supply a dredging plan that includes the following information:

(i) The quantity of material to be removed.

(ii) The method of removal.

(iii) Location of spoil disposal sites and measures that will be taken to protect the environment around them.

(iv) Plans for the protection and restoration of the shoreline environment during and after dredging operations.

(b) A dredging operation judged by the Administrator to be insufficient for protection or restoration of the shoreline environment shall cause denial of a substantial development permit.

16.06.21 Filling.

The following provisions shall apply to filling activities within shorelines:

(1) Fill within surface waters or wetlands shall be allowed only where necessary in conjunction with water-dependent uses or an approved reclamation plan under Section 16.06.23 (Reclamation).

(2) Fill for the purpose of increasing elevation may be permitted if such can be accomplished in a manner consistent with the policies of this chapter.

(3) Fill shall be the minimum necessary to accomplish the use or purpose and shall be confined to areas having the least impact to the stream corridor. Other alternatives should be preferred over fill to elevate new homes in the floodplain, such as increasing foundation height or zero-rise methods such as piers, posts, columns, or other methods.

(4) Fill in floodplains shall meet the requirements of Chapter SMC 11.19.

(5) Pile or pier supports shall be preferred over fill for water-dependent uses and facilities.

(6) Unless site characteristics dictate otherwise, fill material within surface waters or wetlands shall be sand, gravel, rock, or other clean material, with a minimum potential to degrade water quality.

(7) Fill placement shall be scheduled at times having the least impact to fish spawning, nesting patterns, and other identified natural processes.

(8) Fill shall be stabilized with native vegetation where appropriate to prevent erosion, migration of sediments and other material from the fill area to surrounding water, shore, and wetlands, unless technical consultation with other regulating agencies indicates alternative means are required.

(9) Projects that propose fill shall make every effort to acquire fill on site (also known as compensatory storage) where appropriate.

(10) Fill should not obstruct, cut off, or isolate stream corridor features.

(11) Additional Shoreline Standards for Fill. The requirements below shall apply to all filling activities within shoreline jurisdiction.

(a) Fill projects shall be evaluated for effects on total water surface reduction, navigation restriction, impediment to water flow and circulation, impediment to irrigation systems, reduction of water quality, and destruction of fish and wildlife habitat.

(b) Applications shall include a reclamation plan that provides for re-vegetation and protection of shoreline areas from erosion and siltation. A re-vegetation or erosion protection plan judged by the administrative official to be insufficient for the protection or restoration of the shoreline environment shall cause denial of a substantial development permit.

16.06.22 Commercial Mining of Gravels.

The following provisions shall apply to the commercial mining of gravels within shorelines:

(1) Prior to the authorization of a commercial gravel mining operation, the project proponent shall provide maps to scale which illustrate the following:

(a) The extent to which gravel excavation and processing will affect or modify existing stream corridor features, including existing riparian vegetation;

(b) The location, extent and size in acreage of any pond, lake, or feature that will be created as a result of mining excavation;

(c) The description, location, and extent of any proposed subsequent use that would be different than existing uses.

(2) The operations and any subsequent use or uses shall not cause permanent impairment or loss of floodwater storage, wetland, or other stream corridor features. Mitigation shall provide for the feature's replacement at equal value.

(3) Any surface mining allowed within the floodway shall meet the standards of SMC 11.19..

(4) Except where authorized by the City of Selah in consultation with the State Department of Fish and Wildlife and Department of Ecology, the following shall apply:

(a) The excavation zone for the removal of gravels shall be located a minimum of one hundred feet upland from the ordinary high water mark (OHWM) of the stream channel.

(b) Equipment shall not be operated, stored, refueled, or provided maintenance within one hundred feet of the OHWM.

(c) Gravel washing, rock-crushing, screening, or stockpiling of gravels shall not occur within one hundred feet of the OHWM.

(5) Mining proposals shall be consistent with the Washington Department of Natural Resources Surface Mine Reclamation standards (WAC 332-18, RCW 78.44).

(6) Additional Shoreline Standards for Industrial Mining of Gravels. The requirements below shall apply to all mining activities within shoreline jurisdiction.

(a) Applicants shall submit a mining and reclamation plan to the Administrator describing the proposed site, quantity of material to be removed, method of removal, and measures that will be taken to protect lakes and streams from siltation and sedimentation. A surface mining plan or a reclamation plan judged by the administrative official to be insufficient for protection or restoration of the shoreline environment shall cause denial of a substantial development permit.

(b) Mining processing activities and stockpiles shall be sited in such a manner so as to avoid damage or loss resulting from flooding.

(c) Mining processing activities shall utilize existing and/or new vegetation where necessary to minimize visual and noise impacts.

(d) New mining and associated activities shall assure that proposed subsequent use of the mined property is consistent with the provisions of the environment designation and that reclamation of disturbed shoreline areas provides appropriate ecological functions consistent with the setting.

16.06.23 Reclamation.

The following guidelines shall apply to the reclamation of disturbed sites resulting from development activities within a designated hydrologically related critical area:

(1) Development, construction, or uses shall include the timely restoration of disturbed features to a natural condition or to a stabilized condition that prevents degradation within the stream corridor.

(2) Large-scale projects or projects extending over several months shall be phased to allow reclamation of areas where work or operations have been completed.

(3) Reclamation shall be scheduled to address precipitation, meltwater runoff, growing season, and other seasonal variables that influence restoration and recovery.

(4) Topography shall be finished to grades, elevations, and contours consistent with natural conditions in adjacent and surrounding areas.

(5) Where existing development and construction prevent the return of a site to its natural condition, sites may be finished to conditions comparable to surrounding properties provided suitable protective measures are used to prevent stream corridor degradation.

(6) Cut-and-fill slopes shall be stabilized at, or at less than, the normal angle of repose for the materials involved.

(7) The replacement or enhancement of vegetation within wetlands and required vegetative buffers shall use naturally occurring, native plant species. In other parts of the stream corridor, naturally occurring, native plant species shall be used, unless a showing of good cause acceptable to the administrative official is provided, in which case self-maintaining or low-maintenance plant species compatible with native vegetation shall be preferred over non-native and high-maintenance species.

ARTICLE V – SHORELINE USE DEVELOPMENT STANDARDS

16.06.24 Forest Practices.

The following provisions shall apply to forest practices, as defined, within shoreline jurisdiction:

(1) All federal forest practices or nonfederal forest practices meeting the criteria below shall qualify for the exemption from development standards provided in 16.03.13(2)(a). All forest practices qualifying for this provision shall demonstrate compliance by providing a copy of the federal approval or state Forest Practices Permit. Other forest practices must conform to all applicable development standards.

(a) Harvest/treat at least 5 acres of forestland, or supporting such an operation;

(b) All harvesting within 200 feet of OHWM of Shoreline of Statewide Significance uses methods meeting RCW 90.58.150 (selective harvest), as amended;

(c) Activities are not associated with a conversion option harvest;

(d) Approved under a forest practices permit;

(e) Not associated with a harvest under a Class IV, General application to convert forest land to nonforestry use.

(2) Nonfederal forest practices not meeting criteria (1)(a), (b), or (c) above are designated as a conditional use.

(3) Nonfederal forest practices, not meeting criterion (1)(d) above (Class 1 forest practices, activities not requiring DNR review, etc.) shall be reviewed as separate uses or activities.

(4) Nonfederal forest practices not meeting criterion (1)(e) above shall be reviewed as a new proposed use.

16.06.25 Commercial and Community Services.

The following provisions apply to any development, construction, or use of land for commercial and commercial service purposes within shoreline jurisdiction.

(1) Developers shall ensure that utility lines including electricity and communications will be underground, except where presence of bedrock or other obstructions make undergrounding impractical. Aboveground lines in existence at the time of adoption of the master program shall be undergrounded during normal replacement processes.

(2) Water-oriented commercial and community services uses shall be designed to facilitate public access to and enjoyment of nearby shoreline areas.

(3) Application for new commercial or community services shall demonstrate either:

(a) How the use qualifies as a water-oriented use and how facilities function as such; or

(b) That a nonwater-oriented use is part of a mixed use development that includes a water dependent use, and that it will provide a significant public benefit towards meeting SMA objectives, such as providing public access and ecological restoration; or

(c) That a nonwater-oriented use is setback from the OHWM or wetland edge by either a public right-of-way or by 100 feet or more of a separate parcel.

(4) Boating facilities, marinas and extended mooring sites shall:

(a) Comply with the health, safety and welfare standards of State and local agencies for such facilities;

(b) Be so located and designed as not to obstruct or cause danger to normal public navigation of water bodies;

(c) Be restricted to suitable locations;

(d) Avoid or mitigate for aesthetic impacts;

(e) Mitigate special impacts of live-aboard vessels;

(f) Mitigate impacts to existing public access and navigation;

(g) Provide documentation of ownership or authorization to use associated water areas;

(h) Demonstrate that state and local regulations will be met. Agencies responsible for such regulations shall be consulted as to the viability of the proposed design;

(i) Submit an operations and site plan demonstrating:

(i) Location and design of fuel handling and storage facilities to minimize accidental spillage and protect water quality;

(ii) Proper water depth and flushing action for any area considered for overnight or long-term moorage facilities;

(iii) Adequate facilities to properly handle wastes from holding tanks;

(iv) That boating facilities are located only at sites with suitable environmental conditions, shoreline configuration, and access;

(v) Adequate access, parking, and rest room facilities for the public. Such facilities should be located away from the immediate water's edge.

16.06.26 Industrial Activities.

The following provisions apply to any development, construction, or use of land for industrial purposes within shoreline jurisdiction:

(1) Facilities and structures shall be designed and screened with vegetation to minimize degradation of shoreline aesthetic qualities.

(2) Industries which have proven to be environmentally hazardous shall be discouraged from locating along the shorelines.

(3) Industrial uses and redevelopment of industrial uses shall provide for environmental cleanup and restoration in degraded or contaminated locations.

(4) Application for new industrial activities shall demonstrate either:

(a) How the use qualifies as a water-oriented use and how facilities function as such; or

(b) That a nonwater-oriented use is part of a mixed use development that includes a water dependent use, and that it will provide a significant public benefit towards meeting SMA objectives, such as providing public access and ecological restoration; or

(c) That a nonwater-oriented use is setback from the OHWM or wetland edge by either a public right-of-way or by 100 feet or more of a separate parcel.

16.06.27 Residential.

The following provisions apply to any development, construction, or use of land for residential purposes within shoreline jurisdiction.

(1) Developers in the urban, natural and urban conservancy environments shall ensure that utility lines including electricity and communications will be underground, except where the presence of bedrock or other obstructions make undergrounding impractical. Aboveground lines in existence at the time of adoption of the master program shall be undergrounded during normal replacement processes.

(2) Plats of subdivisions containing land adjacent to publicly owned or controlled bodies of water shall allow for pedestrian access to such water bodies for residents of upland lots within the subdivision.

(3) Residential development and preliminary plats shall contain plans indicating how shore vegetation will be preserved and erosion controlled. A vegetation protection and/or erosion control plan judged by the Administrator to be insufficient for protection of the shoreline environment shall cause denial of an application.

(4) Subdivisions within the jurisdiction of the master program shall maintain an overall project density of one dwelling unit per one-half acre. Subsequent re-subdivision of any portion of the property contained in the original plat in order to increase density above that specified herein is prohibited.

16.06.28 Recreation.

The following provisions apply to any development, construction, or use of land for recreational purposes within shoreline jurisdiction.

(1) Recreational activities in the urban and rural environment must be compatible with existing or proposed uses in the area and must not create a noise, traffic, visual or similar problem.

(2) No permanent structures are allowed in the natural environment.

(3) The location, design, and operation of recreational facilities shall be consistent with the purpose of the environmental designation.

(4) Access to recreational areas should emphasize both areal and linear access. Linkage of shoreline parks and public access points by means of linear access should be encouraged.

(5) Different uses within a specific recreational facility must be compatible with each other.

(6) Commercial components of the use that are not explicitly related to the recreational operation must also conform to the commercial use standards of section 16.06.25 (Commercial and Community Services).

16.06.29 Agriculture.

For shoreline purposes, WAC 173-26-020 (Definitions) and WAC 173-26-241(3)(a) (Agriculture) shall determine the need for shoreline review for agricultural activities. To summarize, existing agricultural activities, including maintenance, repair and replacement of existing facilities, may continue as they historically have and may include changes in crops. New agricultural activities on land not currently in agricultural use are subject to shoreline review. New facilities (roads, buildings, etc.) are subject to shoreline review, or exemption when applicable. The following provisions apply to any development, construction, or use of land for agricultural purposes.

(1) Confinement feeding operations shall meet the following standards:

(a) Applicants shall submit a proposed site plan that indicates:

(i) Maximum number and type of livestock to be kept on the site;

(ii) Existing and proposed contour of the land and topographic features;

(iii) Groundwater profiles, streams and drainage ways;

(iv) Soil types;

(v) Existing and proposed building locations;

(vi) Waste disposal facilities including: Site runoff storage ponds, location of manure stockpiles, holding tanks and ponds, ultimate manure disposal sites;

(vii) Other use areas such as feed storage, animal movement routes and animal pens.

(b) A site plan judged by the administrative official to be insufficient for the protection of the shoreline environment shall cause denial of the application.

(2) New agricultural activities and facilities shall utilize best management practices established by the USDA Natural Resources Conservation Service or other similar agency.

16.06.30 Aquaculture.

The following provisions apply to any development, construction, or use of land for aquacultural purposes within shoreline jurisdiction.

(1) All structures located within water bodies shall not preclude navigability of those waters at any time, and shall be clearly marked so as to provide no hazard to navigation on those waters.

(2) Aquaculture facilities shall avoid significant conflict with water-dependent uses, the spreading of disease, introduction of nonnative species, or impacts to shoreline aesthetic qualities.

16.06.31 Piers and Docks.

The following provisions apply to any development, construction, or use of land for piers and docks within shoreline jurisdiction.

(1) Pier and dock construction shall be the minimum size necessary to meet the needs of the use.

(2) New pier or dock construction, excluding docks accessory to single-family residences must demonstrate that a specific need exists to support the intended water-dependent or public access use.

(3) New residential development of two or more dwellings must provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence.

(4) Docks, piers, and any other over-water structures for similar purpose, are prohibited in free-flowing streams and rivers in City of Selah. Bridge and trestle piers, flow measuring gauges, and existing irrigation diversion facilities are excluded from the prohibition in this section.