

ORDINANCE NO. _____

AN ORDINANCE of the City of Federal Way, Washington, relating to amendments to the Federal Way Revised Code and the 2019 Shoreline Periodic Update; amending FWRC 15.05.020, 15.05.030, 15.05.040, 15.05.050, 15.05.070, 15.05.080, 15.05.090, 15.05.100, 15.05.110, 15.05.120, 15.05.140, 15.05.150, 15.05.180, 15.05.220, 15.05.240, 19.145.070, 19.145.410, 19.15.420, 19.145.460, 19.145.520; repealing Chapter FWRC 15.10; and adding new section 15.05.075. (Amending ordinance Nos. 15-797, 11-705, 09-597, 00-375, 99-355, 98-323, 97-291, and 90-38)

WHEREAS, the City adopted its Shoreline Master Program (SMP) in 1994 and amended it in 1998 and 2011; and

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

WHEREAS, the City of Federal Way ("City") is required every eight years to update its Shoreline Master Program ("SMP") pursuant to the SMA and WAC 173-26 and make any amendments to regulations implementing changes in State shorelines laws; and

WHEREAS, the City is required to complete its update by June 30, 2019; and

WHEREAS, the City by RCW 90.58.080(4)(a) is required to update its critical areas regulations to meet current State Code; and

WHEREAS, this ordinance, contains amendments to development regulations and the text of Titles 15.05 FWRC, 15.10 FWRC, and 19.145 FWRC to meet these requirements; and

WHEREAS, the City obtained a grant from the Washington State Department of Ecology to review its shoreline regulations to evaluate the changes necessary to bring the regulations to State standards and the City employed a separate consultant, the Watershed Company, to aid in its review; and

WHEREAS, analysis was completed and presented to the City indicating where changes should be made in current regulations to bring up to standards and improve the regulations to protect the shoreline and critical area environment; and

WHEREAS, the City has complied with Process VI review, Chapter 19.80 FWRC, pursuant to Chapter 19.35 FWRC; and

WHEREAS, the proposed regulations amendments include changes in definitions, shoreline environmental designations language, regulations and administrative procedures, vegetation conservation standards, and elimination of and/or the reference to Chapter 15.10; and

WHEREAS, the updated regulations to implement the City's SMP and 19.145 FWRC is in the best interest and general welfare of the City of Federal Way because it provides for the protection of sensitive shoreline areas while allowing appropriate uses and activities in shoreline areas and includes a plan to conserve, protect, and restore degraded areas of the shoreline; and

WHEREAS, the proposed regulations will apply to all jurisdictional shorelines within City limits and will apply to all jurisdictional shorelines within the City's Potential Annexation Area (PAA), upon the effective date of annexation of the PAA or any portion of the PAA; and

WHEREAS, City staff, the City's consultant, and Department of Ecology staff worked collaboratively to prepare draft revisions to regulations in 15.05 FWRC and 19.145 FWRC; and

WHEREAS, the City prepared a Public Participation Plan and held a public open house on January 30, 2019 to fulfill a portion of that plan: and

WHEREAS, the City held two public Planning Commissions study sessions on April 3, 2019 and April 17, 2019 to discuss the proposed regulation changes; and

WHEREAS, the City held a public hearing before the Planning Commission on May 1, 2019 to deliberate, hear testimony, and make recommendation to the City Council; and

WHEREAS, the City provided opportunity for citizen participation by developing a proposed regulation change update web page, by providing notice of meetings by mail and other means to interested parties, and by maintaining an SMP mail list; and

WHEREAS, pursuant to the *State Environmental Policy Act* (SEPA), on April 12, 2019, a Determination of Nonsignificance was issued by the City's SEPA Official and the appeal period expired on June 3, 2019; and

WHEREAS, per RCW 36.70A.106 the City notified the Department of Commerce on April 17, 2019 of the City's intent to adopt proposed Code amendments, and was acknowledged by the Department of Commerce on April 23, 2019; and

WHEREAS, the Planning Commission discussed and considered the proposed shoreline and critical areas regulations at their study sessions of April 3, 2019, and April 17, 2019, and held a joint public hearing with the Department of Ecology on May 1, 2019, at the close of which it recommended to the Council approval of the updated SMP; and

WHEREAS, the Federal Way Planning Commission on May 1, 2019 recommended approval for amendments to the Federal Way Revised Code as follows:

- (1) To eliminate FWRC 15.10 since it duplicates FWRC 19.145;

- (2) To use the most current critical area regulations contained in FWRC 19.145;
- (3) To include identification of shorelines of the state in FWRC 15.05.020;
- (4) To add and amend definitions in FWRC 15.05.030 for implementation of the shorelines regulations;
- (5) To identify and include reference in FWRC 15.05.040 to critical areas sections of the code relating to shorelines of the state;
- (6) To amend FWRC 15.05.050 identifying the minimum height of bulkheads necessary to prevent structures along tidal waters;
- (7) To clarify in FWRC 15.05.070 tables use standards in shorelines areas;
- (8) To develop in FWRC 15.05.070, 15.05.080, 15.05.090 new shoreline vegetation conservation standards enabled with shoreline setbacks;
- (9) To amend the dollar amount exemption from Shorelines regulations in FWRC 15.05.150;
- (10) To amend FWRC 15.05.220 to allow minor repairs to non-conforming structures without substantial development permit;
- (11) To amend FWRC 19.145.420 incorporating new wetland buffers and wetland mitigation;
- (12) To amend FWRC 19.145.460 to emphasize the purpose of water “capture zones.”
- (13) To eliminate FWRC 19.145.440(6) and (7) and disallowing buffer reduction with enhancement; and

WHEREAS, on May 24, 2019, after the end of the 30-day SEPA and joint public comment period on May 13, 2019, the City transmitted to the Department of Ecology, comments received during the 30-day SEPA comment period, the City’s responses to the public comments, the draft FWRC proposed amendments, and a completed Periodic Review Checklist for Ecology’s initial Ordinance No. 19-_____

determination of consistency, which was issued after their 30-day review period on June 24, 2019; and

WHEREAS, on June 3, 2019, the City Council Land Use/Transportation Committee considered the proposed revisions to the SMP and recommended approval of the proposed revisions as recommended by the Planning Commission; and

WHEREAS, the City Council, through its staff, Planning Commission, and Land Use and Transportation Committee, received, discussed, and considered the testimony, written comments, and material from the public, and considered the proposed amendments to the SMP and Environmentally Critical areas Ordinance at its regular City Council meeting on June 18, 2019; and

WHEREAS, the City Council desires to approve the proposed regulation amendments to meet the State Shoreline Management Act and to update its critical area regulation as recommended by the Planning Commission and Land Use/Transportation Committee.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FEDERAL WAY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings and Conclusions.

(a) The proposed amendments to Title 15 and Chapter 19.145 of the FWRC, as set forth are consistent with Chapter 11, Shoreline Master Program of the comprehensive plan, and will provide for the protection of sensitive shoreline areas while allowing appropriate uses and activities in shoreline areas and includes a plan to conserve, protect, and restore degraded areas of the shoreline; and

(b) These code amendments comply with Chapter 36.70A RCW, Growth Management.

(c) These code amendments are consistent with the intent and purpose of Titles 15 “Shoreline Management” and 19 “Zoning and Development Code” FWRC and will implement and are consistent with the applicable provisions of the Federal Way Comprehensive Plan.

(d) The proposed amendments have complied with the appropriate process under state law and the FWRC.

(e) The proposed amendments bear a substantial relationship to public health, safety, and welfare; are in the best interest of the residents of the City; and are consistent with the requirements of Washington Shoreline Management Act (RCW 90.58, referred to herein as "SMA"), and WAC 173-26.

(f) These code amendments have followed the proper procedure and required under the Federal Way Revised Code.

Section 2. Conclusions. Pursuant to Chapter 19.80 FWRC and Chapter 19.35 FWRC, and based upon the recitals and the findings set forth in Section 1, the Federal Way City Council makes the following Conclusions of Law with respect to the decisional criteria necessary for the adoption of the proposed amendments:

(a) The proposed FWRC amendments are consistent with, and substantially implement, the following Federal Way Comprehensive Plan goals and policies:

Goals:

SMPG1 Shoreline areas shall permit a variety of development types in accordance with the FWRC, FWCP, and Shoreline Master Plan designations. Designs, densities, and locations for all allowed uses and developments should consider physical and natural features of the shoreline and prevent a net loss of shoreline ecological functions.

SMPG2 Residential use of shoreline areas should be continued and encouraged in areas that have not been designated as Natural environments by the SMP, allowing a variety of housing types. New development or redevelopment of residential uses should cause no net loss of shoreline ecological function as identified in the SMP's Shoreline Inventory Characterization and Analysis.

SMPG4 Regional and subregional utility facilities, including communications, (radio, TV, and telephone), energy distribution (petroleum products, natural gas, and electricity), water, sanitary sewers, and storm sewers should not be allowed in shoreline areas unless there is no alternative location. Design, location, construction, and maintenance of utility facilities must comply with the requirements of SMP regulations and other federal, state, and local laws, and result in no net loss of shoreline ecological functions.

NEG7 Protect and enhance the functions and values of the City's wetlands.

Policies

SMPP10 Residential developments should be designed to achieve no net loss of shoreline ecological functions and minimize interference with visual and physical access. Unavoidable impacts to the shoreline environment from residential development should be mitigated to assure no net loss of shoreline ecological functions.

a. Residential development in designated critical areas or their associated buffers should be regulated as required by the City's SMP regulations.

b. Residential development on piers or over water is prohibited.

c. Development standards should require the retention of natural shoreline vegetation and other natural features of the landscape to the greatest extent possible during site development and construction.

SMPP30 New freestanding personal wireless service facilities are prohibited from locating within the shoreline environment.

SMPP45 Where new docks are allowed, new residential development of two or more dwellings should be required to provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence.

- SMPP69 Develop standards, buffers, and mitigation requirements for designated critical areas in the shoreline consistent with city-wide regulations.

- SMPP72 Protection and conservation of vegetation within shoreline areas should be managed through implementation of setback, clearing and grading, and mitigation standards for development activity.

- NEP45 The City will protect its wetlands with an objective of no overall net-loss of functions or values.

- NEP46 Impacts to wetlands should be limited. All efforts should be made to use the following mitigation sequencing approach: avoid, minimize, rectify, reduce over time, compensate, and monitor.

- NEP47 Require buffers adjacent to wetlands to protect wetland function and values integral to healthy wetland ecosystems. Buffer requirements should be predictable and where allowances for buffer alterations are warranted, provide clear direction for mitigation, enhancement, and restoration.

- NEP51 To meet Best Available Science requirements and for consistency with state guidelines, the City's wetland rating system should be based on the current Department of Ecology rating system.

- NEP60 The City should keep abreast of proposed changes to the state's Shoreline Management Act regulations and amend the City's master program in order to reserve the shoreline for preferred uses, protect shoreline natural resources against adverse effects, and promote public access to publically owned areas.

(b) The proposed FWRC amendments bear a substantial relationship to the public health, safety and welfare because they provide implementing clarifications to a number of sections of Title 15 and Title 19 FWRC.

(c) The proposed amendments are in the best interest of the public and the residents of the City of Federal Way because they clarify a number of ambiguous regulations that has the potential for inconsistent application.

Section 3. FWRC 15.05.020 is hereby amended to read as follows:

15.05.020 Jurisdiction.

(1) The provisions of this article shall apply to all development proposed within the areas defined as “shorelines” in RCW 90.58.030(2)(d), and “shorelines of state-wide significance” in RCW 90.58.030(2)(e), and “shorelands” in RCW 90.58.030(2)(f); see FWRC 15.05.030, Additional definitions. The approximate location of these shorelines shall be designated on maps maintained by the ~~department of~~ community development department; however, the property owner or applicant shall be responsible for determining the specific location of the shoreline jurisdiction on the subject Federal Way Revised Code property when a permit is filed. The city shall be responsible for verifying shoreline jurisdiction. Washington Department of Ecology may be contacted to delineate the ordinary high water mark (OHWM) on a subject property as per its authority and responsibilities outlined in RCW 90.58.030(2)(f). Shorelines of the state are as follows:

(a) Within city limits: North Lake, Steel Lake, and the northwest portion of Lake Killarney.

(b) Within the city’s Potential Annexation Area: Star Lake, Lake Dolloff, Lake Geneva, Five Mile Lake, and the remaining portion of Lake Killarney.

(c) Puget Sound.

(2) No development shall be undertaken by any person on the shorelines of the state without obtaining a shoreline permit from the department of community development, or an authorized statement of exemption per WAC 173-27-040 and for developments exempted by RCW 90.58.140(9) and (10).

(3) All proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, and the City of Federal Way shoreline master program whether or not a permit is required.

Section 4. FWRC 15.05.030 shall be amended to read as follows:

15.05.030 Additional definitions.

Unless otherwise defined in this chapter, the definitions contained in this section, FWRC Title 15, Chapter 90.58 RCW, Chapters 173-26 and 173-27 WAC, Chapter 19.05 FWRC or FWRC 1.05.020 shall apply in that order.

“Act” means the Washington State Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

“*Amendment*” means a revision, update, addition, deletion, and/or reenactment to the Federal Way shoreline master program.

“*Appurtenance, residential*” means an improvement necessarily connected to the use and enjoyment of a single-family residence when located landward of the OHWM, the perimeter of a wetland, and outside their corresponding required buffers. Appurtenances may include, but are not limited to: a garage; driveway; utilities; water craft storage (upland); swimming pools; hot tubs; shoreline stabilization; retaining walls; fences; yards; saunas; cabanas; antennas; decks; walkways; stairs; trams and grading which does not exceed 250 cubic yards and which does not involve placement of fill in any wetland or waterward of a marine or freshwater OHWM. Appurtenances do not include secondary sleeping areas or accessory dwelling units.

“*Aquaculture*” means the farming or culturing of food fish, shellfish or other aquatic plants and animals in streams, inlets, and other natural or artificial water bodies. Activities include the hatching, cultivating, planting, feeding, raising and harvesting of aquatic plants and animals, and the maintenance and construction of necessary equipment, buildings, and growing areas. Cultivation methods include but are not limited to fish pens, fish traps, or other similar apparatuses.

“*Average grade level*” means, for a structure built on land, the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure. In the case of structures to be built over the water, “*average grade level*” shall be the elevation of the ordinary high water mark (OHWM). Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure.

“*Backshore*” means a berm, together with associated marshes or meadows, on marine shores landward of the ordinary high water mark which is normally above high tide level and has been gradually built up by accretion.

“*Bank*” means a steep rise or slope at the edge of a body of water or water course.

“*Beach nourishment*” means the artificial replenishing of a beach by delivery of materials dredged or excavated elsewhere.

“*Berm*” means a ledge or shoulder consisting of mounded earth or rock.

“*Bluff*” means a steep slope which abuts and rises from Puget Sound. Bluffs contain slopes predominantly in excess of 40 percent, although portions may be less than 40 percent. The toe of the bluff is the beach of Puget Sound. The top of a bluff is typically a distinct line where the slope abruptly levels out. Where there is no distinct break in slope, the slope is either the line of vegetation separating the unvegetated slope from the vegetated uplands plateau or, when the bluff is vegetated, the point where the bluff slope diminishes to less than 15 percent.

“*Boating facility*” means a facility or structure providing access in and out of the water for vessels, such as a launching ramp, rails, or lift station open to the public. For purposes of the shoreline master program, boating facilities do not include docks, piers, moorage piles, mooring buoys, or floats associated with single-family residences or other joint-use structures not accessible to the public.

“*Breakwater*” means an off-shore structure, either floating or not, which may or may not be connected to the shore, such structure being designed to absorb and/or reflect back into the water body the energy of the waves.

“*Bulkhead*” means a wall, seawall, embankment, or other structure erected at or near the OHWM and roughly parallel to the shoreline that retains or prevents sliding or erosion of land or protects land and/or structures from wave or current action.

“*Commercial use*” means the uses allowed in the commercial zones and the nonindustrial uses permitted in the commercial enterprise zone.

“*Conditional use*” means a use, development, or substantial development which is classified as a shoreline conditional use or is not classified within the shoreline master program.

“*Critical salmonid habitats*” means habitats that are used by Pacific salmonid species that migrate between fresh water and salt water during their life cycle. These habitats include:

- (1) Gravel bottomed streams used for spawning;
- (2) Streams, lakes, and wetlands used for rearing, feeding, and cover and refuge from predators and high waters;
- (3) Streams and salt water bodies used as migration corridors;
- (4) Shallow areas of salt water bodies used for rearing, feeding, as well as cover and refuge from predators and currents, including, but not limited to, forage fish habitats such as sandy beaches and eelgrass beds; and
- (5) Pocket estuaries including stream mouths and deltas where fresh water mixes with salt water and provides rearing habitat for juvenile salmonids. All salt water shorelines in Federal Way are critical salmonid habitats.

“*Date of filing*” see FWRC 15.05.180(2) ‘Final approval of shoreline permits’ for full definition.

“*Department*” means the department of community development services, unless the context indicates otherwise.

“*Development*” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving

of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Shoreline Management Act (Chapter 90.58 RCW) at any state of water level. Development does not include dismantling or removing structures landward of the OHWM if there is no other associated development or re-development.

“*Dock*” means all platform structures floating upon water bodies and connected to land to provide moorage or landing for waterborne pleasure craft.

“*Dredging*” means the removal of earth from the bottom of a stream, marine water body, lake or other water body for the purposes of deepening and/or maintaining a navigational channel.

“*Drift cell*” (also referred to as “*drift sector,*” or “*littoral cell*”) means a particular reach of marine shore in which littoral drift may occur without significant interruption and which contains any natural sources of such drift and also accretion shore forms created by such drift.

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

“*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.

“*Exemptions*” means those development activities which are not required to obtain a substantial development permit, but which must obtain an authorized statement of exemption and which must otherwise comply with applicable provisions of the Shoreline Management Act and the City’s local shoreline master program.

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

“*Feasible*” 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. In determining an action's feasibility, the reviewing agency may weigh the action's relative public costs and public benefits considered in the short- and long-term time frames.

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

"Float" means a structure or device which is not a breakwater and which is moored, anchored, or otherwise secured in the waters of Federal Way, and which is not connected to the shoreline.

"Floating home" means a single-family dwelling unit constructed on a float that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

"Floating on-water residence" means any floating structure other than a floating home, as defined by this chapter that is designed or used primarily as a residence on the water and has detachable utilities.

"Floodway" means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps.

"Floodplain" means the 100-year floodplain and means that land area susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Act.

"Geologically hazardous areas" means areas which because of their susceptibility to erosion, landsliding, seismic, or other geological events are not suited to siting commercial, residential, or industrial development consistent with public health or safety concerns. Geologically hazardous areas include the following areas:

(1) Erosion hazard areas are those areas having a severe to very severe erosion hazard due to natural agents such as wind, rain, splash, frost action, or stream flow.

(2) Landslide hazard areas are those areas potentially subject to episodic downslope movement of a mass of soil or rock including, but not limited to, the following areas:

(a) Any area with a combination of:

(i) Slopes greater than 15 percent;

(ii) Permeable sediment, predominately sand and gravel, overlying relatively impermeable sediment or bedrock, typically silt and clay; and

(iii) Springs or groundwater seepage.

(b) Any area which has shown movement during the Holocene epoch, from 10,000 years ago to the present, or which is underlain by mass wastage debris of that epoch.

(c) Any area potentially unstable as a result of rapid stream incision, stream bank erosion, or undercutting by wave action.

(d) Any area located in a ravine or on an active alluvial fan, presently or potentially subject to inundation by debris flows or flooding.

(e) Those areas identified by the United States Department of Agriculture Soil Conservation Service as having a severe limitation for building site development.

(f) Those areas mapped as Class U (unstable), UOS (unstable old slides), and URS (unstable recent slides) by the Department of Ecology.

(g) Slopes having gradients greater than 80 percent subject to rockfall during seismic shaking.

(3) Seismic hazard areas are those areas subject to severe risk of earthquake damage as a result of seismically induced ground shaking, slope failure, settlement or soil liquefaction, or surface faulting. These conditions occur in areas underlain by cohesionless soils of low density usually in association with a shallow groundwater table.

(4) Steep slope hazard areas are those areas with a slope of 40 percent or greater and with a vertical relief of 10 or more feet, a vertical rise of 10 feet or more for every 25 feet of horizontal distance. A slope is delineated by establishing its toe and top, and measured by averaging the inclination over at least 10 feet of vertical relief.

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

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

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

“*Height*” means that distance measured from average grade level to the highest point of a structure; ~~provided, that excluding~~ television antennas, chimneys, temporary construction equipment, and similar appurtenances ~~shall not be used in calculating height~~, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included; ~~provided further, that temporary construction equipment is excluded in this calculation.~~

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

“*Landslide*” means an episodic downslope movement of a mass of soil or rock that includes but is not limited to rockfalls, slumps, mudflows, and earthflows.

“*Littoral drift*” means the natural movement of sediment along marine or lake shorelines by wave action in response to prevailing winds.

~~“*Major stream*” means any stream, and the tributaries to any stream, which contains or supports, or under normal circumstances contains or supports, resident or migratory fish. If there exists a natural permanent blockage on the stream course which precludes the upstream movement of anadromous salmonid fish, then that portion of the stream which is downstream of the natural permanent blockage shall be regulated as a major stream.~~

“*Marine*” means pertaining to tidally influenced waters, including Puget Sound and the bays, estuaries, and inlets associated therewith.

~~“*Minor stream*” means any stream that does not meet the definition of a major stream~~

“*Mooring buoys*” means a floating object anchored to the bottom of a water body that provides tie-up capabilities for vessels.

“*Native shoreline vegetation*” means trees, shrubs, and other plant species that are indigenous to a specific area or region. ~~Plants~~ and native to western Washington ~~are~~ as referenced in *Flora of the Pacific Northwest* (Hitchcock and Cronquist). Ornamental landscaping and invasive species shall not be considered native shoreline vegetation.

“*Natural or existing topography*” means the topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavating or filling.

“*Nearshore*” means either nearshore environment or nearshore habitat and refers generally to an area along the Puget Sound shoreline that extends from the top of bluffs or upland area immediately adjacent to the beach to the point where sunlight penetrates marine waters to a depth where aquatic plant life is supported.

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

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

“*Nonconforming structure*” See nonconforming development.

“*Nonconforming use or development*” means a shoreline use ~~or development~~ which was lawfully ~~constructed or~~ established prior to the effective date of the Act or the applicable shoreline master program, or amendments thereto, but which does not conform to present use regulations ~~or standards~~ of the shoreline master program.

“*Non-water-oriented uses*” means those uses that are not water-dependent, water-related, or water-enjoyment, and which have little or no relationship to the shoreline and are not considered priority uses under the Shoreline Management Act. Examples include professional offices, automobile sales or repair shops, mini-storage facilities, multifamily residential development, department stores, and gas stations

“*Ordinary high water mark (OHWM)*” means the mark on all lakes, streams, and tidal waters that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition existed on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology. In any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

“*Permit*” means any substantial development, variance, conditional use permit, or revision authorized under Chapter 90.58 RCW.

“*Pier*” means any fixed platform structure upon water bodies that is supported by piles and connected to land.

“*Primary structure*” means the structure associated with the principal use of the property. If more than one structure is associated with the principal use of the property, the one with the highest value shall be considered the primary structure.

“*Public access*” means the general public’s ability to view, reach, touch, and enjoy the water’s edge and use the state’s public waters, the water/land interface, and associated public shoreline area. Public access also includes actual, physical, unobstructed access from land to the ordinary high water mark or adjacent shorelands.

“*Public utility*” means the facilities of a private business organization such as a public service corporation, or a governmental agency performing some public service and subject to special governmental regulations, the services which are paid for directly by the recipients thereof. Such services shall include but are not limited to: water supply, electric power, telephone, cablevision, natural gas, and transportation for persons and freight. The term also includes broadcast towers, antennas, and related facilities operated on a commercial basis.

“*Recreational development*” means commercial and public facilities designed and used to provide recreational opportunities to the public.

“*Replacement structure*” means the construction of a new structure to perform the same function as an existing structure that can no longer adequately serve its purpose. Additions to or increases in size of existing structures shall not be considered replacement structures.

“*Residential development*” means developments and occupancy in which persons sleep and prepare food, other than developments used for transient occupancy. Residential development includes the creation of new residential lots through subdivision of land. Residential development does not include floating homes, floating on-water residences, live-aboard vessels, or converted residential appurtenances.

“*Restoration*” means, in the context of “ecological restoration,” the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures, and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

“*Riprap*” means a layer, facing, or protective mound of angular stones randomly placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

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

“*Shorelands*,” also referred to as “*shoreland areas*,” means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways, and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands

and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology.

“Shoreline administrator” means the director of the department of community development or his or her designee and is responsible for administering the Federal Way shoreline master program.

“Shoreline environment designation” means the categories of shorelines of the state established by the city of Federal Way shoreline management master program to differentiate between areas whose features imply differing objectives regarding their use and future development.

“Shoreline jurisdiction” means all “shorelines of the state” and “shorelands” as defined in the Federal Way shoreline master program and RCW 90.58.030.

“Shoreline master program (SMP)” means the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

“Shoreline modifications” means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing and grading.

“Shoreline stabilization” means structural and nonstructural actions taken to address erosion impacts to property, dwellings, businesses, or structures caused by natural shoreline processes such as currents, floods, tides, wind, or wave action. Expansion or enlargement of existing stabilization measures is considered new stabilization.

“Shoreline variance” means to grant relief from the specific bulk, dimensional, or performance standards in the local shoreline master program, but not a means to vary a “use” of a shoreline.

“Shorelines” means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (1) shorelines of statewide significance; (2) shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream segments; and (3) shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

“Shorelines of statewide significance” means those areas of Puget Sound in the city of Federal Way lying seaward from the line of extreme low tide.

“Shorelines of the state” means the total of all “shorelines” and “shorelines of statewide significance” within the city of Federal Way.

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

“*SMA*” means the Shoreline Management Act.

“*SMP*” means the shoreline master program.

“*Soft-shore bank stabilization*” means the use of bioengineering or biotechnical bank stabilization measures where vegetation, logs, rock, and beach nourishment are used to address erosion control and slope stability.

“*Stringline setback*” means a straight line drawn between the points on the primary structures having the greatest projection waterward on the two adjacent properties. If one of the adjacent properties is unimproved, the line shall be drawn to the point of the standard shoreline setback at the side property line of the unimproved lot.

“*Structure*” See the definition in FWRC 19.05.

“*Substantial accessory structure*” means nonprimary structures equal to or larger than 400 square feet and in good repair.

“*Vegetation conservation area*” means an upland area adjacent to the ordinary high water mark or top of bluff where existing native vegetation and native trees shall be retained per the requirements of the Federal Way shoreline master program. The width of the vegetation conservation area is consistent with setback requirements for specific uses and shoreline environment designations.

“*Vessel*” means ships, boats, barges, or any other floating craft which are designed and used for navigation and do not interfere with the normal public use of the water.

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

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

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

“*Water-oriented use*” means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

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

- (1) Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- (2) The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include professional services serving primarily water-dependent activities and storage of water-transported foods.

“*Wetland*” means areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, 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. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

Section 5. FWRC 15.05.040 is hereby amended to read as follows:

Article II. Shoreline Regulation
15.05.040 General development standards.

The following general development standards apply to all uses and activities in all shoreline environments:

- (1) *Impact mitigation.*

(a) To the extent the Washington State Environmental Policy Act of 1971 (SEPA), Chapter 43.21C RCW, is applicable, the analysis of environmental impacts from proposed shoreline uses or developments shall be conducted consistent with the rules implementing SEPA (FWRC 14.05.010 and Chapter 197-11 WAC). Mitigation for adverse impacts to shoreline functions will be triggered during the SEPA review, shoreline land use permit process, or exemption approval process.

(b) Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority.

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

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

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

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

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

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

(c) In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

(d) Required mitigation shall not be in excess of that necessary to assure that proposed uses or development will result in no net loss of shoreline ecological functions.

(e) Mitigation actions shall not have a significant adverse impact on other shoreline functions fostered by the policy of the Shoreline Management Act.

(f) When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and are located in the immediate vicinity of the impact. However, alternative compensatory mitigation may be authorized if said mitigation occurs within the watershed and addresses limiting factors or identified critical needs for shoreline conservation based on

watershed or comprehensive management plans. Authorization of compensatory mitigation measures may require appropriate safeguards, terms, or conditions as necessary to ensure no net loss of ecological functions.

(2) *Vegetation conservation.* Existing shoreline vegetation shall be preserved per development standards established for each shoreline environment designation as listed in the development standards table and the setback standards in FWRC 15.05.070(6).

(3) *Water quality/stormwater.* All activities and development within the shoreline jurisdiction shall incorporate water pollution control measures and best management practices (BMPs) for stormwater management. Such measures shall address both temporary impacts to water quality from construction activities as well as the need for permanent stormwater management facilities in compliance with the requirements and restrictions of all applicable city and state regulations.

(4) *Critical areas.* Activities and development in critical areas found within shoreline jurisdiction are required to comply with the development standards outlined in Chapter ~~15.10~~ 19.145 FWRC, Environmentally Critical Areas (Ordinance 15-797, June 16, 2015), and Chapter ~~15.15~~ 19.142 FWRC, Flood Damage Prevention (Ordinance 18-856, November 6, 2018), for each area described below.

(a) Activities and alterations to critical areas, shorelines of the state, and their buffers shall be subject to the provisions of Chapter 15.05 FWRC (master program). The master program defers to the director on determining whether an activity affecting critical areas in shoreline jurisdictions is exempt from shoreline permit requirements, per WAC 173-27-040.

(a b) Any conflict between the standards outlined in Chapter ~~15.10-19.145~~ or ~~15.15-19.142~~ FWRC and the SMP shall be resolved in favor of the standard that is most protective of the shoreline ecological functions. In addition to the development standards outlined in Chapters ~~15.10-19.145~~ and ~~15.15-19.142~~ FWRC, the following minimum requirements shall apply with regard to activities and development in critical areas found within shoreline jurisdiction with the following clarifications and modifications:

(i) Minimum setbacks from the OHWM established by this chapter shall be maintained in all cases unless a shoreline variance is granted. Shoreline setbacks are defined in FWRC 15.05.070(6) of this chapter.

(ii) When FWRC ~~.15.10.270~~ 19.145.440 (~~Structures, improvements, and clearing and grading within regulated wetland buffers~~ Development within wetland buffers), subsections (5) Wetland Buffer Reduction averaging, and (6) ~~Modification~~ Buffer reduction with enhancement are utilized for a project proposal, a shoreline variance permit is required if the overall proposed buffer width reduction exceeds 25 percent.

(iii) The provisions of Federal Way Environmentally Critical Area regulations do not extend shoreline jurisdictions beyond the limits specified in this SMP. For regulations addressing critical area buffers that are outside shoreline jurisdiction, see FWRC 19.145.

(iv) Any provision of the Environmentally Critical Areas Ordinance not consistent with the Shoreline Management Act, Chapter 90.58 RCW, or supporting Washington Administrative Code chapters, the more restrictive regulations shall apply.

~~(bc)~~ *Geologically hazardous areas.* Regulated geologically hazardous areas located in the shoreline jurisdiction include seismic hazard areas, landslide hazard areas, steep slopes, and erosion hazard areas. If a geologically hazardous area is located within the shoreline jurisdiction, all activities on the site shall be in compliance with the requirements and restrictions of Articles I, ~~II, III, IV~~ of Chapter ~~15.10~~ 19.145 FWRC. In addition to the development standards outlined in Chapter ~~15.10~~ 19.145 FWRC, the following shall apply with regard to activities and development in geologically hazardous areas found within shoreline jurisdiction:

(i) Creation of new lots shall be prohibited where development and use on new lots would cause a foreseeable risk from geological conditions during the life of the development.

(ii) New development that causes risk from geological conditions ~~should~~ shall not be allowed.

(iii) New development on sites with steep slopes and bluffs is required to be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the project as demonstrated by a geotechnical ~~analysis report~~. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

~~(ed)~~ *Streams and wetlands.* If a stream or wetland is located within the shoreline jurisdiction, all activities within the shoreline jurisdiction shall be in compliance with the requirements and restrictions of Articles I, ~~II, III, and IV~~ and VI of Chapter ~~15.10~~ 19.145 FWRC.

~~(de)~~ *Flood damage reduction.* If an area of special flood hazard is located on or adjacent to a development site within shoreline jurisdiction, all activities on the site shall be in compliance with the requirements and restrictions of Chapter ~~15.15~~ 19.142 FWRC. All activities allowed within the special flood hazard area by the requirements and restrictions of Chapter ~~15.15~~ 19.142 FWRC shall not result in a net loss of ecological function.

(f) *Critical aquifer recharge areas and wellhead protection areas.* If a critical aquifer recharge area or wellhead protection area is located within the shoreline jurisdiction, all activities within

the shoreline jurisdiction shall be in compliance with the requirements and restrictions of Articles I, ~~II, III,~~ and ~~VII~~ of Chapter ~~15.10~~ 19.145 FWRC.

(5) *Critical salmonid habitats.* All salt water shorelines in Federal Way are critical salmonid habitats. Activities and development in critical salmonid habitats found within the shoreline jurisdiction are required to comply with the following development standards, in addition to those contained in other sections of this chapter:

(a) Structures which prevent the migration of salmon and steelhead are prohibited. Fish bypass facilities shall allow the upstream migration of adult fish. Fish bypass facilities shall prevent fry and juveniles migrating downstream from being trapped or harmed.

(b) Shoreline modification structures may intrude into critical salmonid habitats only where the proponent demonstrates all of the following conditions are met:

(i) An alternative alignment or location is not feasible;

(ii) The project is designed to minimize its impacts on the environment;

(iii) If the project will create unavoidable adverse impacts, the impacts are mitigated by creating in-kind replacement habitat near the project. Where in-kind replacement mitigation is not feasible, rehabilitating degraded habitat may be required as a substitute;

(iv) The project satisfies all provisions of FWRC 15.05.050, Shoreline modifications.

(c) Open pile bridges are the preferred water crossing structures over critical salmonid habitats. If a bridge is not feasible, one of the following water crossing structures may be approved if the impacts can be mitigated: temporary culverts, bottomless arch culverts, elliptical culverts, or other fish-passable round culverts. These structures are listed in priority order, with the first having the highest preference and the last the lowest preference. In order for a lower priority structure to be permitted, the applicant must show the higher priority structures are not feasible. The project shall be designed to minimize its impacts on the environment.

(d) Bridges and in-water utility corridors may be located in critical salmonid habitats provided the proponent shows that all of the following conditions are met:

(i) An alternative alignment is not feasible;

(ii) The project is located and designed to minimize its impacts on the environment;

(iii) Any alternative impacts are mitigated; and

- (iv) Any landfill is located landward of the ordinary high water mark.

Open piling and piers required to construct the bridge may be placed waterward of the ordinary high water mark, if no alternative method is feasible.

When installing in-water utilities, the installer may be required to place native material on the bed and banks of the water body or wetland to reestablish the preconstruction elevation and contour of the bed. The project shall be designed to avoid and minimize impacts on the environment.

- (e) Dredging in critical salmonid habitats shall not be allowed unless the proponent demonstrates all of the following conditions are met:

- (i) The dredging is for a water-dependent or water-related use;

- (ii) An alternative alignment or location is not feasible;

- (iii) The project is designed to minimize its impacts on the environment;

- (iv) The project is in the public interest; and

- (v) If the project will create significant unavoidable adverse impacts, then the impacts are mitigated by creating in-kind replacement habitat near the project. Where in-kind replacement mitigation is not feasible, rehabilitating degraded habitat may be required as a substitute.

- (f) In-water dredge spoil disposal sites shall not be located in critical salmonid habitats.

- (g) Filling, dumping, discharging (including discharging of stormwater), commercial or industrial wastewater, dredging, channelization, draining, flooding, disturbing the water level, duration of inundation or water tables, and other activities which negatively impact habitat are prohibited in wetlands, ponds, and side channels which are associated with critical salmonid habitats.

- (h) Within critical salmonid habitats, permanent channel changes and realignments are prohibited.

- (i) The removal of aquatic and riparian vegetation within or adjacent to critical salmonid habitats shall be minimized. Trees which shade side channels, streams, estuaries, ponds, and wetlands associated with critical salmonid habitats shall be maintained consistent with the provisions of this chapter. Areas of disturbed earth shall be revegetated.

(j) Unless removal is needed to prevent hazards to life and property or to enhance critical salmonid habitats, large woody debris below the ordinary high water mark shall be left in the water to provide salmon and steelhead habitat.

(6) *Archaeological and historic resources.*

(a) If any archaeological artifacts are uncovered during excavations in the shoreline, work must stop immediately and the city of Federal Way, the state Department of Archaeology and Historic Preservation, the Muckleshoot Indian Tribe, and the Puyallup Tribe of Indians must be notified.

(b) Proposals for ground disturbing activities in areas known to contain an historic, cultural, or archaeological resource(s) or highly suspected to contain archaeological artifacts and data shall require a site inspection and evaluation by a professional archaeologist or historic preservation professional, as applicable, prior to issuance of a permit or initiation of disturbance. The evaluation shall include recommendations for monitoring of potentially disruptive activities, data recovery, and/or mitigation measures if warranted. Cost for inspection and evaluation of the site will be the responsibility of the applicant.

(c) If archeological items are found during excavation work, the applicant shall stop work and apply for an Archeological Excavation and Removal Permit, per WAC 25-48.

(d) Archeological site investigations are required for sites as defined by Washington State Department of Archeology and Historic Preservation predictive model rates as “survey recommended: moderate risk, “survey highly advised: very high risk,” and “survey highly advised: very high risk.”

(7) *Public access.*

(a) In review of all shoreline permits or developments of more than four residential lots or dwelling units per WAC 173-26-240 (j)(v)(A), or subdivision of land into more than four lots, or commercial development, or non-water-dependent uses (including water-enjoyment and water-related uses) consideration of public access and joint use of community recreational facilities shall be required when:

(i) The development would generate demand for one or more forms of public shoreline access; and/or

(ii) The development would eliminate, restrict, or otherwise impair existing legal access opportunities or rights. In these instances, public access shall be provided by the development in a form, as detailed by subsection (7)(d) of this section, consistent in character with the existing public access that was eliminated, restricted, or otherwise impaired.

(b) Requirements or conditions for public access shall be consistent with all relevant constitutional and other legal limitations on regulation of private property.

(c) Public access requirements shall not be required when the applicant demonstrates that one or more of the following provisions apply:

(i) Unavoidable health or safety hazards to the public exist that cannot be prevented by any practical means;

(ii) Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

(iii) The cost of providing the access, easement, alternative amenity, or mitigating the impacts of public access is unreasonably disproportionate to the total long-term cost of the proposed development;

(iv) Significant environmental impacts would result from the public access that cannot be mitigated; and/or

(v) Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated.

(d) Public access shall consist of a dedication of land or a physical improvement in the form of a walkway, trail, bikeway, corridor, viewpoint, park, or other area serving as a means of view and/or physical approach to shorelines of the state and may include interpretive centers and displays.

(e) Public access locations shall be clearly marked with visible signage.

(f) Public access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished (RCW 36.87.130).

(g) Shoreline development by any public entities, including the city of Federal Way, state agencies, and public utility districts, shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment or other provisions in this section.

(8) *Restoration projects.*

(a) Restoration projects within the shoreline environment consistent with WAC 173-27-080(2)(o) shall be allowed without a shoreline substantial development permit; be reviewed through the

shoreline exemption review process; and be designed consistent with the development standards outlined in Chapter ~~15.10~~ 19.145 FWRC – Critical Areas and the provisions of this chapter.

(b) Approval of restoration projects shall be based on a review of a plan containing, at a minimum, an analysis of existing conditions, identification of the area to be restored, proposed corrective actions, including installation of native species, performance standards, monitoring schedule, planting plans, erosion and sedimentation control plans, and grading plans as necessary.

(c) The ~~shoreline administrator~~ Director shall require an applicant to retain the services of a qualified professional in preparing the restoration plan. Intrusions into regulated steep slopes and associated setbacks will be allowed for purposes of approved restoration projects.

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

Section 6. FWRC 15.05.050 is hereby amended to read as follows:

15.05.050 Shoreline modifications.

(1) *Shoreline stabilization.* Shoreline stabilization may be permitted in the shoreline residential environment. Hard armoring (e.g., bulkheads and riprap) is subject to a shoreline conditional use permit in the urban conservancy environment. Soft-shore stabilization may be permitted in the urban conservancy environment. Shoreline stabilization proposals shall address the following:

(a) Shoreline stabilization, including bulkheads, shall not be considered an outright permitted use on the city’s shorelines. In order for shoreline stabilization to be permitted the city must find that:

(i) The applicant shall provide a geotechnical report, prepared by a qualified professional, that estimates the rate of erosion and evaluates alternative solutions; ~~and~~ the urgency associated with the specific situation; and demonstrate the project is consistent with WAC 173-26-231(3)(a)(iii)(B); and

(ii) Soft-shore stabilization alternatives such as slope drainage systems, vegetative growth stabilization, gravel berms, and beach nourishment shall be prioritized over structural options such as bulkheads and riprap. The “softest” effective alternative shall be utilized; and

(iii) In the case of proposed hard armoring stabilization solutions (e.g., bulkheads and riprap), erosion from waves or currents presents a clear and imminent (damage within three years) threat to a legally established primary structure, one or more substantial accessory structures, water-dependent development, ecological restoration/toxic clean-up remediation projects, or public improvements; and

(iv) In the case of bulkheads and riprap, the proposed shoreline stabilization is located landward of the ordinary high water mark; and

(v) The proposed shoreline stabilization is the minimum size necessary to protect existing improvements; and

(vi) The applicant shall demonstrate that impacts to sediment transport are minimized to the greatest extent possible; and

(vii) Shoreline stabilization shall not have an adverse impact on the property of others and shall be designed so as not to create the need for shoreline stabilization elsewhere; and

(viii) Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface drainage into the water body and shall be constructed using an approved filter cloth or other suitable means to allow passage of surface and groundwater without internal erosion of fine material; and

(ix) Shoreline stabilization shall not be used to create new lands; and

(x) Use of chemically treated wood is prohibited for any shoreline stabilization proposal within fresh water lake shorelines; and

(xi) Use of creosote treated wood is prohibited within marine shorelines; and

(xii) Revegetation with native plants is required as part of the shoreline stabilization project; and

(xiii) Shoreline stabilization shall not otherwise result in a net loss of ecological functions.

(b) When a bulkhead or other structural alternative is permitted subject to subsection (1)(a) of this section, the following standards shall apply:

(i) The maximum height of the proposed bulkhead or other stabilization structure is no more than ~~one foot above the elevation of mean higher high water on tidal waters, or~~ one foot in height above the elevation of ordinary high water mark on lakes, measured from grade on the waterward side of the bulkhead or structure; and the minimum necessary to protect the upland structure(s) or development proposal(s) along tidal waters. Minimum necessary bulkhead height requirements must be supported by both recorded tidal events and geotechnical documentation by a qualified professional. The city may employ an outside consultant at the applicant's expense for third-party review of the report.

(ii) When a bulkhead or other stabilization structure has deteriorated such that the ordinary high water mark has been established by the presence and action of water landward of the

existing bulkhead, then the replacement bulkhead or structure must be located at or landward of the ordinary high water mark.

(iii) Repair of an existing bulkhead or other stabilization structure is permitted provided that the repaired bulkhead or structure is not relocated further waterward or increased in height.

(iv) If an existing bulkhead or other stabilization structure is destroyed it may be replaced as it existed prior to destruction, provided application for required permits is made within one year of destruction. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

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

(vi) The project satisfies the provisions of FWRC 15.05.040(5)(b).

(c) Creation of new lots shall be prohibited where development and use on new lots would require structural shoreline stabilization over the life of the development. The following standards shall apply to new development.

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

(ii) New development, including newly created parcels, is required to be designed and located to prevent the need for future shoreline stabilization as documented by a geotechnical analysis.

(iii) New development on steep slopes and bluffs is required to be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the project as demonstrated by a geotechnical analysis.

(2) *Piers, docks, floats, and mooring buoys.* Piers, docks, floats, and mooring buoys may be permitted in the shoreline residential and urban conservancy environments subject to the following conditions:

(a) Public piers and docks shall only be allowed for water-dependent uses and public access subject to a shoreline conditional use permit and the following criteria:

(i) Public's need for such a structure is clearly demonstrated;

(ii) The project, including any required mitigation, will result in no net loss of ecological functions associated with critical salt water habitat;

(iii) The project is consistent with the state's interest in resource protection and species recovery; and

(iv) Moorage at public docks is limited to recreational purposes and shall not extend more than one 24-hour period. Public docks may not be used for commercial or residential moorage.

(b) Residential piers, docks, floats, or mooring buoys may be permitted accessory to a single-family residence, or as common use facilities associated with a subdivision, short subdivision, or multifamily development, in accordance with this chapter and the following limitations:

(i) Residential mooring buoys are preferred over docks and piers on the Puget Sound shoreline. Applicants for a residential dock or pier on the Puget Sound shoreline must demonstrate why a mooring buoy will not provide adequate moorage for recreational watercraft.

(ii) No more than one pier, dock, float, or mooring buoy for each existing residential lot is permitted.

(iii) New residential developments of two or more units, subdivisions, or short subdivisions shall be limited to one shared dock or pier.

(A) The total number of moorage spaces shall be limited to one moorage space for every dwelling unit up to four. For each two dwelling units after four, one additional moorage space is permitted.

(c) All docks and piers shall be subject to the mitigation requirements per FWRC 15.05.040(1) and will result in no net loss of ecological functions associated with critical salt water habitat. A preliminary eelgrass survey as specified under the Army Corps of Engineers, Regional General Permit, RGP 6 shall be required for new docks or piers on the Puget Sound shoreline.

(d) No dwelling unit may be constructed on a pier or dock.

(e) No covered pier, covered dock, covered moorage, covered float, or other covered structure is permitted waterward of the ordinary high water mark.

(f) Piers, docks, mooring buoys, or floats shall meet the side and rear yard setbacks of the underlying zoning classification, except in the case of shared facilities, in which case no side yard setback is required.

(g) All piers, docks, mooring buoys, floats, or other such structures shall not, during the course of the normal fluctuations of the elevation of the water body, protrude more than five feet above the surface of the water.

(h) Floats cannot rest on the tidal substrate at any time. Stoppers on the piling anchoring the floats or stub piling must be installed such that the bottom of the flotation device is at least one foot above the level of the substrate.

(i) Any pier, dock, mooring buoy, or float must be constructed out of materials that will not adversely affect water quality. Use of chemically treated wood is prohibited in fresh water lake shorelines. Use of creosote treated wood is prohibited in marine shorelines.

(j) Any new pier or dock must be located generally perpendicular to the shoreline, and oriented to minimize shading impacts to the maximum degree feasible.

(k) Live-aboard vessels are prohibited except temporary habitation on a vessel is permitted only in a cabin under the hull and only provided that such habitation shall not create a public health hazard or nuisance and this habitation shall not exceed 14 days within any six-month period. Moorage not associated with residential development may not extend greater than one 24-hour period without a lease from the Washington Department of Natural Resources.

(l) *Pier and dock dimensions and grating, marine shorelines.*

(i) Where authorized by this chapter, piers and docks located on marine shorelines shall be the minimum size required to provide for moorage. Single-family piers or docks shall not exceed 75 feet in length measured perpendicularly from the OHWM. Shared moorage may extend up to 100 feet in length if demonstrated to be necessary to provide adequate moorage. Docks that cannot meet this standard may request a review under the variance provisions of this program.

(ii) The maximum width of each pier or dock shall be six feet.

(iii) The maximum width of walkway ramps shall be four feet and shall be fully grated.

(iv) The decking of all piers and docks shall be designed to allow a minimum of 45 percent light passage. This may be accomplished through grated decks, space between decking, light prisms, or other means.

(v) Pier skirting is not permitted.

(m) *Pier and dock dimensions and grating, lake shorelines.*

(i) The maximum waterward intrusion of any portion of any pier or dock shall not extend further waterward than the average length of the piers or docks on lots abutting the location of the new dock as measured perpendicularly from the ordinary high water mark unless an alternative dimension is required in order to prevent impacts to critical areas. In no circumstances shall the maximum waterward intrusion of any portion of any pier or dock

extend more than 36 feet from the ordinary high water mark, or the point where the water depth is eight feet below the elevation of the ordinary high water mark, whichever is reached first.

(ii) The maximum width of each pier or dock shall be six feet, or up to eight feet wide on joint-use docks where additional mitigation is provided.

(iii) The decking of all piers and docks shall be designed to allow a minimum of 45 percent light passage. This may be accomplished through grated decks, space between decking, light prisms, or other means.

(n) Floats are limited under the following conditions:

(i) One float per single-family residence and no more than one common use float for each new multifamily development, short subdivision, or subdivision is permitted.

(ii) No portion of a float shall be placed more than 45 feet waterward of the ordinary high water mark on lake shorelines.

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

(iv) No float shall have more than 100 square feet of surface area.

(v) Floats shall use grating on at least 30 percent of their surface to allow light penetration.

(3) *Boating facilities – launching ramps, rails, and lift stations.*

(a) Launching ramps, rails, and lift stations may be permitted in parks and public access areas in the shoreline residential and urban conservancy environments subject to a shoreline conditional use permit, where authorized by FWRC 15.05.070 through 15.05.090. The following conditions shall apply:

(i) No portion of a launching ramp, rail, or lift station shall be placed more than 60 feet waterward of the ordinary high water mark.

(ii) All portions of a launching ramp, rail, or lift station shall be placed at a depth not to exceed eight feet below the ordinary high water mark.

(iii) Launching rails or ramps shall be anchored to the ground through the use of tie-type construction. Asphalt, concrete, or other ramps, which solidly cover the bottom or bed of a water body, are prohibited.

(iv) No more than one launching ramp, rail, or lift station per shoreline development shall be permitted.

(v) Launching ramps, rails, or lift stations shall not be permitted for shoreline developments that have an existing pier, dock, float, mooring buoy, or other functional moorage. Piers, docks, floats, or other forms of moorage shall not be permitted for shoreline developments that have existing launching ramps, rails, or lift stations.

(vi) Launching ramps, rails, and lift stations shall be sited and designed to ensure protection of navigation routes and access; shall be aesthetically compatible with or enhance existing shoreline features; and shall be clearly marked and separated from nearby swimming areas.

(vii) On-shore facilities associated with public boating facilities shall provide adequate off-street parking and loading area, and have adequate facilities for handling of sewage and litter.

(4) *Breakwaters, jetties and groins.*

(a) Floating breakwaters are permitted in the shoreline residential and urban conservancy environments, with a conditional use permit, when the following conditions apply:

(i) Floating breakwaters may be allowed if necessary to protect a public boat launch, when no other alternative with less impact to the environment is feasible.

(ii) When permitted, development of floating breakwaters shall include mitigation measures consistent with this chapter as to ensure no net loss of ecological function.

(iii) Nonfloating breakwaters are prohibited.

(b) Jetties are prohibited within all shoreline environments in the city.

(c) Groins are prohibited in all shoreline environments in the city.

(5) *Dredging and filling.*

(a) *Dredging.*

(i) Dredging activities in shoreline residential or urban conservancy environments require a conditional use permit. Dredging is not permitted in the natural environment.

(ii) Dredging activities are allowed only where necessary to protect public safety or for shoreline restoration activities.

(iii) Dredging is allowed only where an alternative alignment that would not require dredging is not feasible.

(iv) Where allowed, dredging operations must be scheduled so as to not damage shoreline ecological functions or processes.

(v) Where allowed, dredging operations shall avoid and minimize significant ecological impacts to the greatest extent feasible, and shall be mitigated as required by this chapter.

(vi) Siting and design of new development shall avoid the need for new and maintenance dredging.

(vii) Dredging for fill materials shall be prohibited, except for projects associated with MTCA or CERCLA remediation actions, habitat restoration, or any other significant restoration effort approved by a shoreline conditional use permit. In such instances, placement of dredged fill material must be waterward of the OHWM.

(b) *Filling.*

(i) Fill activities waterward of the ordinary high water mark shall only be allowed with a shoreline conditional use permit in association with allowed (permitted) water-dependent use developments; public access; clean-up and disposal of contaminated sediments as part of an interagency environmental clean-up plan; disposal of dredged material in accordance with the DNR Dredged Material Management Program; or expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not feasible). Fill waterward of the ordinary high water mark associated with non-water-dependent uses shall be prohibited.

(ii) Fill waterward of the ordinary high water mark needed to support the following water-dependent uses may be allowed through a conditional use permit in the shoreline residential and urban conservancy environments:

(A) Public access;

(B) Expansion, alteration, or repair of transportation facilities currently located within the shoreline;

(C) Mitigation actions;

(D) Environmental, ecological, or watershed restoration projects;

(E) Beach nourishment or enhancement projects; and

(F) Soft-shore bank stabilization projects.

(iii) Permitted fill activities must comply with the following standards:

(A) Demonstration that alternatives to fill are not feasible;

(B) Demonstration that fill shall be deposited so as to minimize disruption of normal surface and groundwater passage;

(C) Demonstration that fill materials shall be of such quality that they will not adversely affect water quality;

(D) Demonstration that fill shall allow surface water penetration into the groundwater supply, where such conditions existed prior to the fill; and

(E) Demonstration that fill timing will minimize damage to water quality and aquatic life.

(iv) Fill, except for beach nourishment, shall be prohibited in areas of high shoreline erosion potential.

(v) Fill located waterward of the ordinary high water mark that results in a net loss of shoreline function is prohibited.

Section 7. FWRC 15.05.070 is hereby amended to read as follows:

15.05.070 Summary of uses, approval criteria, and process.

(1) Uses not addressed in the program shall be conditional uses.

(2) Specific regulations for each use/development are provided in subsequent sections for shoreline residential (FWRC 15.05.080), urban conservancy (FWRC 15.05.090), and natural (FWRC 15.05.100) environments. All permitted and conditional uses may not appear in the permitted use table (subsection (5) of this section). In cases where uses are not listed, or conflicts exist with other section(s) of the program, the text provisions shall control.

(3) *Prohibited uses.*

(a) The following uses are prohibited in all shoreline environments:

(i) Commercial agriculture.

(ii) Aquaculture.

(iii) Forest practices.

(iv) Industrial uses.

(v) Mining.

(vi) Floating homes.

(vii) Floating on-water residences are prohibited unless the owner or primary occupant has held an ownership interest in space in a marina or has held a lease or sub-lease to use space in a marina since a date prior to July 1, 2014.

(viii) Live-aboard vessels except as allowed by FWRC 15.05.050(2)(k).

(b) Additional uses are prohibited in specific shoreline environments, as detailed by the permitted use table and FWRC 15.05.080, 15.05.090, and 15.05.100.

(4) *Prohibited shoreline modifications.*

(a) The following shoreline modifications are prohibited in all shoreline environments:

(i) Jetties.

(ii) Groins.

(b) Additional shoreline modifications are prohibited in specific shoreline environments, as detailed by the permitted use table and FWRC 15.05.080, 15.05.090, and 15.05.100.

(5) *Permitted use table.* The following table summarizes the permitted, conditional, and prohibited uses for each shoreline environment:

Shoreline Environment			
Shoreline Modification	Shoreline Residential	Urban Conservancy	Natural
Shoreline Stabilization ¹	P	P/C ²	X
Piers and Docks	P/C ³	P/C ³	X
Mooring Buoys and Floats	P	P	X
Boating Facilities	C	C ⁴	X
Floating Breakwaters ⁴	C	X	X
Dredging and Filling	P/C ⁵	P/C ⁵	X

Shoreline Use	Shoreline Residential	Urban Conservancy	Natural
Office and Commercial Development	X	C	X
Recreational Development	P	P	P/X ⁹
Residential Development	P	P	C ⁸
Accessory Structures	P	P	C
Utilities ⁶	P	P	C
Transportation/Parking Facilities ⁷	P	P	C

P = Allowed as exempt from permitting or permitted with substantial development permit

C = May be allowed with shoreline conditional use permit

X = Prohibited

1. Includes bulkheads, bio-engineered erosion control projects, and other shoreline stabilization activities.
2. Soft-shore stabilization is permitted and hard armoring (e.g., bulkheads, riprap) is subject to a shoreline conditional use permit.
3. Public piers and docks are allowed with a CUP.
4. Floating breakwaters are allowed with a shoreline conditional use permit, and only when used to protect a public boat launch. Nonfloating breakwaters are prohibited.
5. Dredging and all fill waterward of the OHWM requires a conditional use permit.
6. Solid waste transfer stations and cellular towers are prohibited in all shoreline environments.
7. Parking as a primary use is prohibited in all shoreline environments, but allowed if serving an allowed shoreline use.
8. Multifamily residential development is prohibited within the natural environment.
9. Non-water-oriented recreational development is prohibited in the natural environment.

(6) *Standards table.* The following table summarizes siting, design, and dimensional standards of this program, as specified within FWRC 15.05.040, 15.05.050, 15.05.080, 15.05.090, and 15.05.100 for general shoreline regulations, shoreline modifications, and shoreline uses:

Shoreline Environment			
	Shoreline Residential	Urban Conservancy	Natural
General standards for all development and uses (further detailed by specific use regulations below)			
Height ¹	35 feet	35 feet	35 feet
Shoreline setbacks ²	50 feet from OHWM or as required for protection of critical areas, whichever is greater	50 feet from OHWM or as required for protection of critical areas, whichever is greater	100 feet from OHWM or as required for protection of critical areas, whichever is greater
Vegetation conservation area ³	Conserve 70% (minimum) of native vegetation and 70% (minimum) of native trees in setback	Conserve 85% (minimum) of native vegetation and 80% (minimum) of native trees in setback	Conserve 100% of native vegetation and 100% of native trees in setback

Shoreline Environment			
	Shoreline Residential	Urban Conservancy	Natural
Office and commercial development			
Shoreline setbacks ²	N/A (Prohibited)	75 feet from OHWM or as required for protection of critical areas, whichever is greater ²	N/A (Prohibited)
Associated overwater structures		Prohibited, unless providing public access	
Residential development			
Shoreline setbacks ²	Single-family: 50 feet from OHWM or as required for protection of critical areas, whichever is greater ² Multifamily: 75 feet from OHWM or as required for protection of critical areas, whichever is greater ²	Single-family: 50 feet from OHWM or as required for protection of critical areas, whichever is greater ² (no multifamily zoning in this environment)	Single-family only, subject to CUP: 100 feet from OHWM or as required for protection of critical areas, whichever is greater
Density	Subject to underlying zoning (typically 7,000 to 10,000 sq. ft. minimum lot size; limited areas of multifamily residential zoning, 1,800 sq. ft. minimum lot size)	Subject to underlying zoning	Subject to underlying zoning (5-acre minimum lot size)
Residential accessory structures within the required shoreline setback			
Height	8 feet	8 feet	8 feet
Maximum footprint	150 sf per structure ⁴ ; 300 sf total per lot	150 sf per structure ⁴ ; 300 sf total per lot	150 sf per structure ⁴ ; 300 sf total per lot
Shoreline Modifications			
Shoreline stabilization⁵ (FWRC 15.05.070)			
Design requirements	<ul style="list-style-type: none"> • Nonstructural alternatives prioritized • Creation of new land prohibited • Located at or landward of ordinary high water • Marine: creosote prohibited • Fresh water: chemically treated wood prohibited • Revegetation with native plants required • Maximum height is 1 foot above elevation of mean high water mark (tidal) ordinary high water (lakes) <u>and minimum necessary to protect the upland structure(s) or development proposal(s) along tidal waters. Minimum necessary bulkhead height</u> 		N/A (Prohibited)

Shoreline Environment			
	Shoreline Residential	Urban Conservancy	Natural
	<u>requirements must be supported by both recorded tidal events and geotechnical documentation by a qualified professional.</u>		
Piers, docks, mooring buoys, and floats (FWRC 15.05.050(2))			
Side yard setbacks	Consistent w/underlying zoning, except none when joint use		N/A (Prohibited)
Maximum height	Above water surface level: 5 feet		
Siting and design requirements	<ul style="list-style-type: none"> • Dwelling units prohibited on piers and docks • Covered overwater structures prohibited • Piers and docks oriented perpendicular to the shoreline • Piers and docks: must be constructed from materials that allow light penetration through the structure • Marine: creosote prohibited • Fresh water: chemically treated wood prohibited • Public dock moorage limited to recreational uses • 1 dock per existing residential lot • 1 shared dock per new multifamily development, subdivision, or short subdivision (additional limitations on number of moorage spaces) • 1 float per existing residence/1 shared dock per new multifamily development/subdivision/short subdivision 		
Pier and dock dimensions, lake shorelines	<ul style="list-style-type: none"> • Residential piers and docks: maximum waterward intrusion: based on <u>average</u> length of nearest existing docks on either side of the proposed dock; never to exceed 36 feet from OHWM or length at 8 feet of depth below OHWM, whichever is reached first • 6-foot maximum dock width (8-foot for joint use) 		N/A (Prohibited)
Pier and dock dimensions, marine shorelines	<ul style="list-style-type: none"> • Maximum waterward intrusion from OHWM 75 – 100 feet depending on use • 6-foot maximum dock width • Minimum 45% transparency of decking 		
Float dimensions and standards	<ul style="list-style-type: none"> • Maximum waterward intrusion: 45 feet from OHWM on lakes • Maximum surface area: 100 sq. ft. • Use of grating on at least 30% of surface area 		
Boating facilities – launching ramps, rails, and lift stations (FWRC 15.05.050 (3))			
Dimensions and standards	<ul style="list-style-type: none"> • No more than 60 feet waterward from OHWM • No more than 8 feet below OHWM • No more than 1 ramp per shoreline development • Shall not be allowed for developments with existing 		N/A (Prohibited)

Shoreline Environment			
	Shoreline Residential	Urban Conservancy	Natural
	pier, dock, float, or other functional moorage. Piers, docks, floats, or other forms of moorage shall not be permitted for developments with existing launch facilities.		

1. Maximum heights may be increased pursuant to the shoreline environment-specific regulations of this program (FWRC 15.05.080(3), 15.05.090(3), and 15.05.100(3)).
2. Please refer to the shoreline environment-specific regulations of this program for additional detail related to residential setbacks, including exceptions or modifications to the standard minimum setback (FWRC 15.05.080(3), 15.05.090(3), and 15.05.100(3)).
3. See Shoreline Vegetation Conservation Standards under FWRC 15.05.075
4. Grass-grid pavers count towards 50% of the maximum footprint requirement.
- 35 See additional review and approval criteria and design requirements in FWRC 15.05.050(1).

Section 8. FWRC 15.05.075 is hereby added to read as follows:

15.05.075 Shoreline vegetation conservation standards.

(1) Purpose. Vegetation conservation provide a means to conserve, protect, and restore shoreline vegetation in order to provide for ecological and habitat functions, as well as human health and safety per WAC 173-26-201(3)(c)(i). Vegetation conservation areas shall consist of a non-clearing area established to protect the integrity, functions, and values of the affected critical area or shoreline, but may also be modified and reduced to accommodate allowed uses when consistent with the Act and this program.

(2) Tree removal and retention

(a) Trees determined by the city to be hazardous or diseased may be removed.

(b) Tree Retention Standards in the Shoreline Setback – The Director or designee may require site plan alterations to retain trees in the shoreline setback according to FWRC 19.120.130(2), Tree Unit Credits Table. Such alterations include minor adjustments to the location of building footprints, adjustments to the location of driveways and access ways, or adjustment to the location of walkways, easements, or utilities. The applicant shall be encouraged to retain viable trees in other areas on site.

(c) The Director may require:

(i) A site plan showing the approximate location of existing trees, their size (diameter breast height) and their species, along with the location of existing structures, driveways, access ways, and easements, and the proposed improvements, or

(ii) An arborist report stating the size (DBH), species, and assessment of health of all existing trees located within the shoreline setback. This requirement may be waived by the director or

designee if it is determined that proposed development activity will not potentially impact existing trees within the shoreline setback.

(d) The Director may approve an alternative replacement option if an applicant can demonstrate that:

(i) It is not feasible to plant all of the required mitigation trees in the shoreline setback of the subject property, given the existing tree canopy coverage and location of trees on the property, the location of structures on the property, and minimum spacing requirements for the trees to be planted, or

(ii) The required tree replacement will obstruct existing views to the regulated shorelines, at the time of planting or upon future growth that cannot otherwise be mitigated through tree placement or maintenance activities. The applicant shall be responsible for providing sufficient information to the city to determine whether the tree replacement will obstruct existing views to the regulated shorelines, or

(iii) The alternate replacement option is equal to or superior to the provisions of this section in accomplishing the purpose and intent of maintaining shoreline ecological functions and processes by replacing diseased, nuisance, or fallen trees at a ratio of 2:1, or

(iv) The alternative plan is consistent with the standards provided in this subsection, and the director or designee approves the plan or imposes conditions to the extent necessary to make the plan consistent with the provisions. If the alternative mitigation is denied, the applicant shall be informed of the deficiencies that caused its disapproval so as to provide guidance for its revision and re-submittal.

(3) *Responsibility for Regular Maintenance.* The applicant, landowner, or successors in interest shall be responsible for the regular maintenance of vegetation required under this section. Plants that die must be replaced in kind or with similar plants contained on the King County Native Plant List, or other native or shoreline appropriate species approved by the director or designee.

(a) All required vegetation must be maintained throughout the life of the development.

(b) Plantings shall occur in the late fall or early spring to ensure a higher survival rate and shall address the plant installation and maintenance requirements set forth in FWRC 19.120.220, Revegetation and 19.120.240, Performance assurance. Performance and maintenance standards of a minimum two-year maintenance bond may be required. Plant materials shall be identified with both their scientific and common names. Any required irrigation system must also be shown.

Section 9. FWRC 15.05.080 is hereby amended to read as follows:

15.05.080 Shoreline residential environment.

(1) *Purpose.* The purpose of the “shoreline residential” environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

(2) *Designation criteria.* Designation criteria for the shoreline residential environment are provided in the city’s shoreline master program.

(3) *General requirements.*

(a) Development waterward of the ordinary high water mark is prohibited except water-dependent recreational uses, permitted shoreline modifications, and public utilities.

(b) No structure shall exceed the height allowed by the underlying zoning or 35 feet above average grade level, whichever is less.

(i) This requirement may be modified if the view of any neighboring residences will not be obstructed, if permitted by the applicable provisions of the underlying zoning, and if the proposed development is water-related or water-dependent. For any proposed structure with a height exceeding 35 feet, a view analysis shall be completed and approved by the city to ensure that visual public access is not affected consistent with FWRC 15.05.040(7).

(c) All development shall be required to provide adequate surface water retention, erosion control, and sedimentation facilities during the construction period.

(d) *Setbacks.* Development shall maintain a minimum shoreline setback of the first 50 feet of property landward from the ordinary high water mark, or other designated minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. This minimum setback area shall be retained as a vegetation conservation area, subject to provisions referenced in subsection (3)(e) of this section.

(e) *Vegetation conservation area.* The required setback area shall be considered a vegetation conservation area. Within the vegetation conservation area, no more than 30 percent of the area with existing native shoreline vegetation shall be cleared, and a minimum of 70 percent of existing native trees shall be retained. See FWRC 15.05.075, Shoreline setback vegetation conservation standards for submittal requirements. ~~Trees determined by the city to be hazardous or diseased may be removed. Additionally, the director may allow removal of vegetation exceeding that described above where an applicant agrees to replacement plantings that are~~

~~demonstrated to provide greater benefit to shoreline ecological processes than would be provided by strict application of this section,~~

(f) *Impact mitigation.* All developments and uses shall result in no net loss of ecological functions and shall be consistent with the impact mitigation requirements of FWRC 15.05.040(1).

(g) Collection facilities to control and separate contaminants shall be required where stormwater runoff from impervious surfaces would degrade or add to the pollution of recipient waters of adjacent properties.

(h) All development in the shoreline residential area must comply with applicable regulations identified within the general development standards, shoreline modifications, and all other applicable sections of this chapter.

(4) *Shoreline modifications.*

(a) Allowed modifications to the shoreline within shoreline residential designated areas include the following:

(i) *Shoreline stabilization.* Allowed within the shoreline residential designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(1).

(ii) *Piers and docks.* Allowed within shoreline residential designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(2).

(iii) *Mooring buoys and floats.* Allowed within shoreline residential designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(2).

(iv) *Boating facilities – launching ramps, rails, and lift stations.* Permitted with a conditional use permit in parks and public access areas within the residential environment under the requirements imposed by FWRC 15.05.040 and 15.05.050(3).

(v) *Breakwaters.* Floating breakwaters are allowed within the shoreline residential areas with a shoreline conditional use permit under the requirements imposed by FWRC 15.05.040 and 15.05.050(4).

(vi) *Dredging and filling.* Allowed within shoreline residential designated areas with a shoreline conditional use permit under the requirements imposed by FWRC 15.05.040 and 15.05.050(5).

(b) Prohibited modifications to the shoreline within shoreline residential designated areas include the following:

(i) Jetties and groins.

(5) *Shoreline uses.*

(a) Allowed uses within shoreline residential designated areas include the following:

(i) *Residential development.* Single-family residential use shall be a priority use in the shoreline environment. Single-family and multiple-family residential development, accessory dwelling units, and home occupations may be permitted in the shoreline residential environment subject to the following:

(A) The proposed use is permitted in the underlying zone classification.

(B) Residential development is prohibited waterward of the ordinary high water mark.

(C) *Setbacks.*

(I) Single-family residential development on marine shorelines shall maintain a minimum shoreline setback of 50 feet from the ordinary high water mark. Single-family residential development on lake and marine shorelines shall maintain a minimum setback behind the stringline setback or 50 feet from the ordinary high water mark, whichever is greater. If the site contains one or more designated critical areas, the setback shall be the minimum necessary to protect such designated critical areas per FWRC 15.05.040(4), or the stringline setback, or 50 feet from the ordinary high water mark, whichever is greater. Where critical area setbacks do not apply, the standard 50-foot minimum setback may be modified pursuant to the following exception:

(a) If single-family residential development is proposed on a lot where properties on at least one side of the lot are developed in single-family residences located less than 50 feet from the ordinary high water mark, then the proposed residential development may be located the same distance from the ordinary high water mark as the adjacent residences (using the stringline setback method as defined in FWRC 15.05.030), but shall in no case be closer than 30 feet from the ordinary high water mark.

(II) Multifamily residential development on marine shorelines shall maintain a minimum setback of 75 feet from the ordinary high water mark. Multifamily residential development on lake shorelines shall maintain a minimum setback behind the stringline setback or 75 feet from the ordinary high water mark, whichever is

greater. If the site contains one or more designated critical areas, the setback shall be the minimum necessary to protect such designated critical areas per FWRC 15.05.040(4), or the stringline setback, or 75 feet from the ordinary high water mark, whichever is greater. Where critical area setbacks do not apply, the standard 75-foot minimum setback may be modified pursuant to the following exception:

(a) If multifamily residential development is proposed on a lot where properties on at least one side of the lot are developed in multifamily residential uses located less than 75 feet from the ordinary high water mark, then the proposed residential development may be located the same distance from the ordinary high water mark as the adjacent residential uses (using the stringline setback method as defined in FWRC 15.05.030) but shall be no closer than 50 feet from the ordinary high water mark.

(D) *Public access.* In review of all shoreline permits or developments of more than four residential lots or dwelling units, or subdivision of land into more than four lots, consideration of public access shall be required consistent with FWRC 15.05.040(7).

(E) Where allowed consistent with underlying zoning, subdivision of land shall be configured through the orientation of lots to:

(I) Prevent the loss of ecological functions at full build-out by providing adequate developable space outside of setbacks; and

(II) Avoid the need for new shoreline stabilization and flood hazard reduction measures.

(ii) *Accessory structures.* Residential accessory structures may be placed within the required shoreline setback, provided:

(A) No accessory structure shall cover more than 150 square feet.

(B) No more than 300 square feet of accessory structures shall be allowed.

(C) No accessory structure shall exceed eight feet in height.

(D) Existing native shoreline vegetation within the shoreline setback is conserved as per general requirements in subsections (3)(d) and (e) of this section.

(iii) *Recreational development.* Recreational development may be permitted in the shoreline residential environment subject to the general requirements of this chapter, provided:

(A) The recreational development is permitted in the underlying zone.

(B) The facilities are located, designed, and operated in a manner consistent with the purpose of the residential environment.

(C) Recreational development that provides public access to and use of the water shall be given priority.

(D) Recreational development shall provide mitigation consistent with the general requirements of this chapter and shall lead to no net loss of ecological functions.

(E) Swimming areas shall be separated from boat launch areas.

(F) Boat launching facilities may be developed, subject to a shoreline conditional use permit, provided:

(I) The parking and traffic generated by such a facility can be safely and conveniently handled by the streets and areas serving the proposed facility.

(II) The facility will not be located on a beach area or cause net loss in shoreline function.

(G) Upland facilities constructed in conjunction with a recreational development shall be set back and/or sited to avoid adverse impacts to the functions of the shorelines of the city.

(H) Public pedestrian and bicycle pathways shall be permitted adjacent to water bodies. Such trails and pathways must be made of pervious materials, if feasible.

(I) Public contact with unique and fragile areas shall be permitted where it is possible without destroying the natural character of the area.

(J) Water viewing, nature study, recording, and viewing shall be accommodated by space, platforms, benches, or shelter consistent with public safety and security.

(iv) *Utilities.* Utility facilities, with the exception of cellular towers, solid waste transfer stations, and production and processing facilities, may be permitted in the shoreline residential environment subject to the requirements of this chapter, provided:

(A) No other practicable alternative location outside of the shoreline jurisdiction with less impact to the environment is available for the facility.

(B) Utility and transmission facilities shall:

- (I) Avoid disturbance of unique and fragile areas.
 - (II) Avoid disturbance of wildlife spawning, nesting, and rearing areas.
 - (III) Conserve native shoreline vegetation, particularly forested areas, to the maximum extent possible.
 - (IV) Avoid ~~Overhead~~ utility facilities ~~shall not be permitted~~ in public parks, monuments, scenic, recreation, or historic areas.
 - (V) Minimize visual impact.
 - (VI) Harmonize with or enhance the surroundings.
 - (VII) Not create a need for shoreline protection.
 - (VIII) Utilize to the greatest extent possible natural screening.
 - (IX) Mitigate for unavoidable impacts to achieve no net loss of shoreline ecological functions.
 - (X) Be located in existing utility and transportation rights-of-way whenever feasible.
- (C) The construction and maintenance of utility facilities shall be done in such a way so as to:
- (I) Maximize the preservation of natural beauty and the conservation of resources.
 - (II) Minimize scarring of the landscape.
 - (III) Minimize siltation and erosion.
 - (IV) Protect trees, shrubs, grasses, natural features, and topsoil.
 - (V) Avoid disruption of critical aquatic and wildlife stages.
- (D) Rehabilitation of areas disturbed by the construction and/or maintenance of utility facilities shall:

(I) Be accomplished as rapidly as possible to minimize soil erosion and to maintain plant and wildlife habitats.

(II) Utilize native trees and shrubs.

~~(E) Solid Waste transfer stations are prohibited within shoreline jurisdiction.~~

~~(F) Cellular or wireless towers are prohibited within shoreline jurisdiction.~~

(v) *Transportation and parking facilities.* Transportation and parking, except parking facilities associated with detached single-family development, shall conform to the following minimum requirements:

(A) Transportation corridors shall be developed consistent with the transportation element of the Federal Way comprehensive plan (FWCP) and designed to provide the best service with the least possible impact on shoreline ecological function. Impacts to functions shall be mitigated to achieve no net loss of ecological functions.

(B) New road construction shall be the minimum necessary to serve a permitted shoreline use.

(C) New public transportation facilities shall provide turnout areas for scenic stops where feasible.

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

(E) New surface transportation facilities not related to and necessary for the support of shoreline activities shall be located outside the shoreline jurisdiction if possible, or set back from the ordinary high water mark far enough to make protective measures such as riprap or other bank stabilization, landfill, or substantial site regrade unnecessary.

(F) Maintenance, repair, replacement, or other roadway improvements (including but not limited to widening to serve existing or projected volumes, installation of curb and gutter, sidewalks, illumination, signals) to existing surface transportation facilities shall be allowed within shoreline residential designated areas. Improvements that create a need for protective measures such as riprap or other bank stabilization, landfill, or substantial site regrade shall not be permitted unless no alternative exists and impacts to shoreline ecological functions are mitigated.

(G) Any new development or expansion of existing development creating greater than six total parking stalls must meet the water quality standards required by the King County surface water manual for “high use” sites and “resource stream protection.”

(H) Outdoor parking area perimeter, excluding entrances and exits, must be maintained as a planting area with a minimum width of five feet.

(I) One live tree with a minimum height of four feet shall be required for each 30 linear feet of planting area.

(II) One live shrub of one-gallon container size, or larger, for each 60 linear inches of planting area shall be required.

(III) Additional perimeter and interior landscaping of parking areas may be required, at the discretion of the director, when it is necessary to screen parking areas or when large parking areas are proposed.

(I) Parking as a primary use in shoreline jurisdiction shall be prohibited.

(J) Parking in the shoreline jurisdiction shall directly serve a permitted shoreline use and environmental and visual impacts shall be minimized.

(K) Transportation and parking facilities for subdivision, multifamily residential, and commercial uses shall incorporate low impact development (LID) designs to minimize stormwater runoff.

(L) Transportation facilities shall not adversely impact existing or planned water-dependent uses.

(b) In addition to those uses prohibited in all shoreline environments by FWRC 15.05.070(3), the following uses are prohibited uses within shoreline residential designated areas:

(i) Office and commercial development.

Section 10. FWRC 15.05.090 is hereby amended to read as follows:

15.05.090 Urban conservancy environment.

(1) *Purpose.* The purpose of the “urban conservancy” environment is to protect and restore ecological functions of open space, floodplain, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. Priority should be given to

water-oriented uses over non-water-oriented uses in the urban conservancy environment. Residential development and appurtenant structures should be accommodated in the urban conservancy environment when consistent with existing land use and zoning, and when consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

(2) *Designation criteria.* Designation criteria for the urban conservancy environment are provided in the city's shoreline master program.

(3) *General requirements.*

(a) Development waterward of the ordinary high water mark is prohibited except water-dependent recreational uses, permitted shoreline modifications, and public utilities.

(b) No structure shall exceed the height allowed by the underlying zoning or 35 feet above average grade level, whichever is less. This requirement may be modified if the view of any neighboring residences will not be obstructed, if permitted by the applicable provisions of the underlying zoning, and if the proposed development is water-related or water-dependent. For any proposed structure with a height exceeding 35 feet, a view analysis shall be completed and approved by the city to ensure that visual public access is not affected consistent with FWRC 15.05.040(7).

(c) All development shall be required to provide adequate surface water retention and sedimentation facilities during the construction period.

(d) *Setbacks.* Development shall maintain a minimum shoreline setback of the first 50 feet of property landward from the ordinary high water mark or other designated minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. This minimum setback area shall be retained as a vegetation conservation area, subject to provisions referenced in subsection (3)(e) of this section.

(e) *Vegetation conservation area.* The required setback area shall be considered a vegetation conservation area. Within the vegetation conservation area, no more than 15 percent of the area with existing native shoreline vegetation shall be cleared, and a minimum of 80 percent of existing native trees shall be retained. See FWRC 15.05.075, Shoreline setback vegetation conservation standards for submittal requirements. ~~Trees determined by the city to be hazardous or diseased may be removed. Additionally, the director may allow removal of vegetation exceeding that described above where an applicant agrees to replacement plantings that are demonstrated to provide greater benefit to shoreline ecological processes than would be provided by strict application of this section.~~

(f) *Impact mitigation.* All developments and uses shall result in no net loss of ecological functions and shall be consistent with the impact mitigation requirements of FWRC 15.05.040(1).

(4) *Shoreline modifications.*

(a) Allowed modifications to the shoreline within urban conservancy designated areas include the following:

(i) *Shoreline stabilization.* Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(1).

(ii) *Piers and docks.* Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(2).

(iii) *Mooring buoys and floats.* Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.040 and 15.05.050(2).

(iv) *Boating facilities – launching ramps, rails, and lift stations.* Permitted with a shoreline conditional use permit in parks and public access areas within the urban conservancy environment under the requirements imposed by FWRC 15.05.040 and 15.05.050(3).

(v) *Breakwaters.* Floating breakwaters are allowed within the urban conservancy designated areas with a shoreline conditional use permit under the requirements imposed by FWRC 15.05.040 and 15.05.050(4).

(vi) *Dredging and filling.* Allowed within urban conservancy designated areas with a shoreline conditional use permit under the requirements imposed by FWRC 15.05.040 and 15.05.050(5).

(b) Prohibited modifications to the shoreline within urban conservancy designated areas include the following:

(i) Jetties and groins.

(5) *Shoreline uses.*

(a) Allowed uses within urban conservancy designated areas include the following:

(i) *Residential development.* Allowed within urban conservancy designated areas under the requirements imposed within FWRC 15.05.080(5)(a)(i), with the following additional restrictions:

(A) *Setbacks.* Residential development on marine shorelines shall maintain a minimum setback of 50 feet from the ordinary high water mark, or other established minimum

setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. Residential development on lake shorelines shall maintain a setback behind the stringline setback, or 50 feet from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. Exceptions to minimum setback requirements included in FWRC 15.05.080(5)(a)(i)(C), for both single-family and multifamily development, shall apply.

(B) *Accessory structures.* Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.080(5)(a)(ii).

(ii) *Recreational development.* Recreational development may be permitted in the urban conservancy environment subject to the general requirements of this chapter and under the requirements imposed by FWRC 15.05.080(5)(a)(iii).

(iii) *Utilities.* Allowed within urban conservancy designated areas under the requirements and restrictions imposed by FWRC 15.05.080(5)(a)(iv).

(iv) *Transportation and parking facilities.* Allowed within urban conservancy designated areas under the requirements imposed by FWRC 15.05.080(5)(a)(v).

(v) *Office and commercial development.* Office and commercial development may be allowed with conditional use approval in the urban conservancy environment subject to the requirements of this chapter, provided:

(A) The office or commercial use or activity is permitted in the underlying zoning classification.

(B) Public access is provided consistent with the requirements of FWRC 15.05.040(7).

(C) Non-water-oriented office and commercial uses are prohibited uses unless they meet one or more of the following criteria:

(I) The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit such as providing public access and/or ecological restoration; or navigability is severely limited at the proposed site.

(II) In areas designated for commercial use, non-water-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right-of-way.

(III) Office and commercial development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses,

resources, and values provided for in RCW 90.58.020 such as navigation, recreation, and public access.

(D) Office and commercial development on marine shorelines shall maintain a setback of 75 feet from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. Office and commercial development on lake shorelines shall maintain a setback behind the stringline setback, or 75 feet from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is greater. The minimum setback may be reduced using the stringline method, when applicable, but in no case shall the minimum setback be less than 50 feet from the ordinary high water mark.

(E) Piers, docks, moorages, buoys, floats, and launching facilities will not be permitted in conjunction with office or commercial development; unless they are developed as part of on-site public access to the shoreline.

(F) Additional water quality standard must be met as per FWRC 15.05.040(3).

Section 11. FWRC 15.05.100 is hereby amended to read as follows:

15.05.100 Natural environment.

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

(2) *Designation criteria.* Designation criteria for the natural environment are provided in the city’s shoreline master program.

(3) *General requirements.*

(a) Development waterward of the ordinary high water mark is prohibited except water-dependent recreational uses and public utilities.

(b) No structure shall exceed the height allowed by the underlying zoning or 35 feet above average grade level, whichever is less. This requirement may be modified if the view of any neighboring residences will not be obstructed, if permitted by the applicable provisions of the

underlying zoning, and if the proposed development is water-related or water-dependent. For any proposed structure with a height exceeding 35 feet, a view analysis shall be completed and approved by the city to ensure that visual public access is not affected consistent with FWRC 15.05.040(7).

(c) All development shall be required to provide adequate surface water retention and sedimentation facilities during the construction period.

(d) *Setbacks.* Development shall maintain a minimum shoreline setback of the first 100 feet of property landward from the ordinary high water mark, or other established minimum setback necessary to protect designated critical areas per FWRC 15.05.040(4), whichever is the greater setback, as a vegetation conservation area subject to provisions referenced in subsection (3)(e) of this section.

(e) *Vegetation conservation area.* The required setback area shall be considered a vegetation conservation area. Within the vegetation conservation area, no native shoreline vegetation shall be cleared, and all existing native trees shall be retained. See FWRC 15.05.075, Shoreline setback vegetation conservation standards for submittal requirements. ~~Trees determined by the city to be hazardous or diseased may be removed. Additionally, the director may allow removal of vegetation exceeding that described above where an applicant agrees to replacement plantings that are demonstrated to provide greater benefit to shoreline ecological processes than would be provided by strict application of this section,~~

(f) *Impact mitigation.* All developments and uses shall result in no net loss of ecological functions and shall be consistent with the impact mitigation requirements of FWRC 15.05.040(1).

(4) *Shoreline modifications.* The following shoreline modifications are prohibited within the natural designated shoreline areas:

- (a) Shoreline stabilization;
- (b) Piers, docks, moorages, buoys, and floats;
- (c) Boating facilities – launching ramp, rails, and lift stations;
- (d) Breakwaters, jetties, and groins; and
- (e) Dredging and filling.

(5) *Shoreline uses.*

(a) Allowed uses within natural designated areas include:

(i) *Residential development.* Multifamily residential uses are prohibited in the natural environment. Single-family residential development and residential accessory structures may be permitted in the natural environment with a shoreline conditional use permit with the following additional restrictions:

(A) Allowed only where single-family residential development is permitted in the underlying zone classification.

(B) Single-family residential development is prohibited waterward of the ordinary high water mark.

(ii) *Recreational development.* Allowed within the natural designated areas subject to the limitations of subsection (4) of this section and provided:

(A) The recreational development is permitted in the underlying zone.

(B) Non-water-oriented recreational uses and development are prohibited within the natural designated areas.

(C) The recreational development is located, designed, and operated in a manner consistent with the purpose of the natural environment with a focus on passive recreation.

(D) Recreational development shall provide mitigation consistent with the general requirements of this chapter and shall lead to no net loss of shoreline ecological functions.

(E) The parking and traffic generated by such a facility can be safely and conveniently handled by the streets and areas serving the proposed development.

(F) Upland facilities constructed in conjunction with a recreational development shall be set back and/or sited to avoid adverse impacts to the functions of the shorelines of the city.

(G) Public pedestrian and bicycle pathways shall be made of pervious materials.

(iii) *Utilities.* Allowed within the natural designated areas with a shoreline conditional use permit under the requirements and restrictions imposed within FWRC 15.05.080(5)(a)(iv).

(iv) *Transportation and parking facilities.* Allowed in the natural environment only when necessary to serve an allowed use and subject to the approval of a conditional use permit. Approved facilities must, at a minimum, meet the requirements and restrictions imposed within FWRC 15.05.080(5)(a)(v).

(v) *Low intensity public uses.* Low intensity public uses including scientific, historical, cultural, and educational research uses are allowed under the general requirements for the natural environment (subsection (3) of this section); and provided, that ecological impacts are avoided.

(b) In addition to those uses prohibited in all shoreline environments by FWRC 15.05.070(3), the following uses are prohibited uses within natural designated areas:

- (i) Boating facilities;
- (ii) Multifamily residential development;
- (iii) Office and commercial development.

Section 12. FWRC 15.05.110 is hereby amended to read as follows:

Article III. Administrative Procedures

15.05.110 Shoreline management permit and enforcement procedures, adoption by reference.

The city of Federal Way hereby adopts by reference the following sections or subsections of Chapter 173-27, as amended, of the Washington Administrative Code (“WAC”), entitled Shoreline Management Permit and Enforcement Procedures.

WAC:

- (1) 173-27-020, Purpose.
- (2) 173-27-040, Developments exempt from substantial development permit requirement.
- (3) 173-27-044, Developments not required to obtain shoreline permits or local reviews.
- (4) 173-27-125, 90-day review target for WSDOT projects.
- (35) 173-27-130, Filing with department.
- (46) 173-27-270, Order to cease and desist.

(~~57~~) 173-27-280, Civil penalty.

(~~68~~) 173-27-290, Appeal of civil penalty.

(~~79~~) 173-27-300, Criminal penalty.

Section 13. FWRC 15.05.120 is hereby amended to read as follows:

15.05.120 Permit processing and public notice.

An application for a shoreline development permit shall be made to the department of community development on forms prescribed by the department. Public notice shall be provided as follows:

(1) An application for a substantial development permit requires public notice as prescribed in Process III, Chapter 19.65 FWRC.

(2) An application for a shoreline conditional use permit or shoreline variance requires public notice as prescribed in Process IV, Chapter 19.70 FWRC.

(3) The application for shoreline exemption, substantial development permit, conditional use permit, and/or variance permit applies to the most current SMP, effective 14 calendar days after Ecology's approval letter.

Section 14. FWRC 15.05.140 is hereby amended to read as follows:

15.05.140 Application requirements.

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

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

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

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

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

(5) Identification of the name of the shoreline (water body) that the site of the proposal is associated with. This should be the water body from which jurisdiction of the Act over the project is derived.

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

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

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

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

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

(b) The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location; provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark, the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to nor within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.

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

(d) A delineation of all wetland areas that will be altered or used as a part of the development.

(e) A general indication of the character of vegetation found on the site.

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

- (g) Where applicable, a landscaping plan for the project.
 - (h) Where applicable, plans for development of areas on- or off-site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.
 - (i) Quantity, source, and composition of any fill material that is placed on the site whether temporary or permanent.
 - (j) Quantity, composition, and destination of any excavated or dredged material.
 - (k) A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments, and uses on adjacent properties.
 - (l) Where applicable, a depiction of the impacts to views from existing residential uses and public areas.
 - (m) On all variance applications the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.
 - (n) Summary of how the proposal meets relevant decisional criteria.
 - (o) Additional information as requested by the city.
- (10) Where applicable, a shoreline assessment and mitigation report prepared by a qualified professional which, at a minimum, includes the following:
- (a) Site plan and cross-sections of development and critical areas and critical salmonid habitat identified.
 - (b) A detailed description of proposed development.
 - (c) Identification of any species of local importance, priority species, or endangered, threatened, or sensitive species that have documented or observed habitat on or adjacent to the project area.
 - (d) An assessment of potential impacts the proposal may have on fish and wildlife species, critical areas, and critical salmonid habitats.
 - (e) A discussion of any federal, state, or local management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to project area. See FWRC 19.142.060 for floodplain development permit requirements.

(f) A discussion of mitigation measures that have been implemented to avoid and minimize adverse impacts to fish and wildlife species and habitats, critical areas, and critical salmonid habitat. The mitigation must also include a mitigation plan showing the area of mitigation and detailed mitigation measures, such as habitat features and planting of native vegetation.

Section 15. FWRC 15.05.150 is hereby amended to read as follows:

15.05.150 Shoreline substantial development permit.

(1) The purpose of a substantial development permit is to provide an approval process for any development with a total cost or fair market value exceeding ~~\$5,718~~ the dollar figure set in RCW 90.58.030(3)(e), or any development which materially interferes with the normal public use of the water or shorelines of the state, except those exempted developments set forth in the preceding section, consistent with WAC 173-27-040. ~~The substantial development dollar threshold on the adoption date of this program is \$5,718.~~ Under current law, the substantial development dollar threshold will be recalculated every five years by the Washington State Office of Financial Management (OFM). OFM posts updated dollar thresholds in the Washington State Register.

(2) When a substantial development permit is requested, the permit shall be reviewed under the provisions of Process III, Chapter 19.65 FWRC, and the director of community development shall be the final approval authority for the city of Federal Way.

(3) A substantial development permit shall be granted by the director only when the development proposed is consistent with the following:

- (a) Goals, objectives, policies, and use regulations of the Federal Way shoreline master program;
- (b) Federal Way comprehensive plan and city code; and
- (c) The policies, guidelines, and regulations of the Shoreline Management Act (Chapter 90.58 RCW and Chapters 173-26 and 173-27 WAC).

(4) The director may attach conditions to the approval of permits as necessary to assure consistency of the proposal with the above criteria.

Section 16. FWRC 15.05.180 is hereby amended to read as follows:

15.05.180 Final approval of shoreline permits.

(1) The director of community development shall notify and forward to the following agencies or persons within five days of the final approval of a shoreline permit and any shoreline variances or conditional uses granted:

- (a) The applicant;
- (b) The state Department of Ecology;
- (c) Any person who has submitted written comments on the application; and
- (d) Any person who has requested notification in writing prior to final approval of the permit.

(2) No work may commence on a site requiring a shoreline substantial development, shoreline variance, or shoreline conditional use permit until 21 calendar days following the “date of filing” or until all review proceedings before the shoreline hearings board have terminated.

(a) “*Date of filing*” for a substantial development permit is the date of actual receipt of the decision by the Department of Ecology.

(b) “*Date of filing*” for a shoreline variance or shoreline conditional use permit shall mean the date the permit decision rendered by the Department of Ecology is transmitted by the department to the city and the applicant/proponent.

Section 17. FWRC 15.05.220 is hereby amended to read as follows:

15.05.220 Replacement, alteration, or reconstruction of nonconforming use or development.

(1) Applications for substantial development or building permits to modify a nonconforming use or development, as defined in this chapter, may be approved only if:

- (a) The modifications will make the use or development less nonconforming; or
- (b) The modifications will not make the use or development more nonconforming; and
- (c) Structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers, or yards; area; bulk; height; or density may be maintained and repaired and may be enlarged or expanded; provided, that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.

(d) Minor repairs to non-conforming structures under the monetary threshold listed in FWRC 15.05.150 (RCW 90.58.030[3][e]) can apply for a shoreline exemption.

(2) An existing use or development, not conforming to existing regulations, which is destroyed may be replaced (per “replacement structure” as defined in this chapter) as it existed prior to destruction, provided application for required permits is made within one year of destruction.

(3) If a nonconforming use is discontinued for 12 consecutive months or for 12 months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming.

(4) An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or the Federal Way shoreline master program, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the FWRC and so long as such development conforms to all other requirements of the Federal Way shoreline master program and the Act.

(5) An existing mechanical improvement, not conforming to existing regulations, which breaks and cannot be repaired may be replaced, provided the replacement is no more nonconforming and application for required permits is made within one year of failure.

(6) Existing, legally established residential structures, not including bulkheads, that do not meet current dimensional or bulk standards, but are otherwise conforming, are classified as conforming. Redevelopment, expansion, and replacement is allowed so long as it is consistent with Chapter 15.05, Shoreline Management.

Section 18. FWRC 15.05.240 is hereby amended to read as follows:

15.05.240 Amendments to this chapter.

Amendments to this chapter shall be pursuant to state review and approval as per WAC 1763-26-110 and 1763-26-120.

Section 19. FWRC Chapter 15.10 is hereby repealed in its entirety.

Section 20. FWRC 19.145.070 is hereby amended to read as follows:

19.145.070 Maps and inventories.

(1) Critical areas maps and inventories generally designate the location of critical areas within the city and are adopted by reference.

(2) Area-wide inventories and documents identifying critical areas may not identify all critical areas designated under this chapter. The provisions of this chapter will apply to all designated critical areas located within the city, including those critical areas not identified on a map or inventory. Whenever there is evidence of a critical area located within or in proximity to a nonexempt action, the director may require a critical area report to determine the extent to which such critical area may exist.

(3) Critical area maps and inventories are to be used for planning level purposes only and the actual presence/absence, type, extent, and boundaries of critical areas shall be identified in the field by a qualified professional according to the procedures and criteria established in this chapter. In the event of any conflict between the critical area location and designation shown on the city's map and the criteria or standards of this chapter, the criteria and standards shall prevail.

(4) The following maps and inventories, as amended, are used for identifying possible critical areas and their buffers:

(a) Federal Way critical areas map;

(b) ~~Lakehaven Utility District capture zone~~ Washington State Department of Health Source Water map;

(c) Federal Way final wetland inventory report prepared by Sheldon and Associates, Inc., July 19, 1999;

(d) Preliminary stream inventory, Federal Way gap analysis, November 29, 2001;

(e) Washington State Department of Fish and Wildlife priority habitat and species maps; and

(f) Additional state and federal maps and inventories may be used if necessary.

Section 21. FWRC 19.145.420 is hereby amended to read as follows:

19.145.420 Wetland rating and buffers.

(1) *Rating.* Wetlands shall be rated according to the Washington Department of Ecology wetland rating system, as set forth in the Washington State Wetland Rating System for Western Washington – 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by Ecology), which contains the definitions and methods for determining whether the criteria below are met:

(a) Category I wetlands represent a unique or rare wetland type; are more sensitive to disturbance than most wetlands; are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or provide a high level of function. The following types of wetlands are Category I:

(i) Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/Department of Natural Resources;

(ii) Bogs;

(iii) Wetlands with mature and old growth forests larger than one acre; and

(iv) Wetlands that perform functions at high levels (wetlands that score 23 points or more based on functions).

(b) Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. Category II wetlands are those wetlands that score between 20 and 22 points based on functions.

(c) Category III wetlands are wetlands with a moderate level of functions that score between 16 and 19 points based on functions.

(d) Category IV wetlands are wetlands with the lowest level of functions (scoring less than 16 points based on functions) and are often heavily disturbed.

(2) Wetland buffers shall be measured perpendicular from the wetland boundary as delineated and marked in the field. Buffer widths are established as follows in Table 1:

Wetland Category	Minimum Buffer Width (wetland scores 3—4 habitat points)	Buffer Width (wetland scores 5 habitat points)	Buffer Width (wetland scores 6—7 habitat points)	Buffer Width (wetland scores 8—9 habitat points)
Category I: Bogs and wetlands of high conservation value	190 feet	190 feet	190 feet	225 feet
Category I: Forested and based on function score	75 feet	105 feet	165 feet	225 feet
Category II	75 feet	105 feet	165 feet	225 feet
Category III	60 feet	105 feet	165 feet	225 feet
Category IV	40 feet	40 feet	40 feet	40 feet

Table1

<u>Wetland Category</u>	<u>Buffer Width</u>	<u>Buffer Width</u>	<u>Buffer Width</u>
	<u>(wetland scores 3-5 habitat points)</u>	<u>(wetland scores 6 – 7 habitat points)</u>	<u>(wetland scores 8 – 9 habitat points)</u>
<u>Category I:</u> <u>Bogs and wetlands of high conservation value</u>	<u>250 feet</u>	<u>250 feet</u>	<u>300 feet</u>
<u>Category I:</u> <u>Forested and based on function score</u>	<u>100 feet</u>	<u>150 feet</u>	<u>300 feet</u>
<u>Category II</u>	<u>100 feet</u>	<u>150 feet</u>	<u>300 feet</u>
<u>Category III</u>	<u>80 feet</u>	<u>150 feet</u>	<u>300 feet</u>
<u>Category IV</u>	<u>50 feet</u>	<u>50 feet</u>	<u>50 feet</u>

(3) No wetland buffer is required for those isolated wetlands 1,000 square feet or less in total area.

(4) All compensatory mitigation sites shall have buffers consistent with the buffer requirements of this section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

(5) Lighting shall be directed away from wetland buffers unless otherwise determined by the director.

(6) All lots approved in a recorded subdivision or binding site plan that contain wetlands and their associated buffer in a native growth protection easement or tract may be improved pursuant to easement or tract boundaries established in the plat regardless of subsequent regulatory buffer increases or natural migration.

(7) All wetland and wetland buffer boundaries shown on an approved use process decision and/or building permit shall be honored regardless of subsequent regulatory buffer increases or natural migration.

Section 22. FWRC 19.145.440 is hereby amended to read as follows:

19.145.440 Development within wetland buffers.

(1) *Generally.* Except as allowed in this section, no development or improvement may be located within a wetland buffer.

(2) *Trails.* The director may provide written approval for passive pedestrian recreation facilities designed in accordance with an approved critical area report and the following standards:

(a) Trails are composed of pervious surfaces no more than five feet in width. Raised boardwalks and wildlife viewing structures composed of non-treated pilings may also be considered;

(b) Trails are generally located parallel to the perimeter of the wetland and within the outer 25 percent of the buffer; and

(c) Trails shall avoid the removal of mature trees.

(3) *Stormwater management facilities.* The director may provide written approval for stormwater management facilities limited to stormwater dispersion outfalls and bioswales within the outer 25 percent of the buffer of category III and IV wetlands if the location of such facilities will not degrade the functions or values of the wetland.

(4) *Permanently altered buffer.* The director may provide written approval for a buffer reduction when existing conditions are such that portions of the required buffer exist in a permanently altered state (e.g., roadways, paved parking lots, and permanent structures) and do not provide any buffer function. The buffer may be reduced up to the area where the altered conditions exist.

(5) *Buffer averaging.* The city will review and decide upon buffer averaging using process III in Chapter 19.65 FWRC, based on the following criteria that shall be added to the critical areas report:

(a) The total area of the buffer after averaging is equal to the area required without averaging;

(b) The buffer is increased adjacent to the higher functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion;

(c) The buffer at its narrowest point is not reduced to less than 75 percent of the required width; and

(d) Unless authorized in writing by a consenting neighboring property owner, the averaging will remain on the subject property.

(6) *Buffer reduction with enhancement.* Buffers may be reduced by up to 25 percent on a case-by-case basis if the project includes a buffer enhancement plan that clearly substantiates that an enhanced buffer will improve and provide additional protection of wetland functions and values. Buffer reductions may not be used in combination with buffer averaging. The city will review and decide upon buffer reductions using process III in Chapter 19.65 FWRC, based on the following criteria:

(a) It will not adversely affect water quality;

- (b) It will not adversely affect the existing quality of the wetland or buffer wildlife habitat;
- (c) It will not adversely affect drainage or stormwater retention capabilities;
- (d) It will not lead to unstable earth conditions nor create erosion hazards;
- (e) It will not be materially detrimental to any other property or the city as a whole; and
- (f) All exposed areas are stabilized with native vegetation, as appropriate.

A buffer enhancement plan, prepared by a qualified professional, shall be incorporated into the critical area report. The plan shall assess the habitat, water quality, stormwater retention, groundwater recharge, and erosion protection functions of the existing buffer; assess the effects of the proposed modification on those functions; and address the six approval criteria of this section.

(7) *Buffer increases.* The director shall require increased buffer widths, on a case-by-case basis, when a larger buffer is necessary to protect functions, values or hazards based on site-specific conditions. This determination shall be supported by appropriate documentation showing that additional buffer width is reasonably related to protection of the functions and values of the wetland, and/or protection of public health, safety and welfare. Such determination shall be attached as permit conditions. The determination must include but not be limited to the following criteria:

- (a) The wetland contains habitat for species listed as threatened, endangered, candidate, sensitive, monitored, or documented priority species or habitats by state or federal agencies, and additional buffer is necessary to maintain viable functional habitat;
- (b) The adjacent land is susceptible to severe erosion, and erosion control measures will not effectively prevent adverse wetland impacts; or
- (c) The adjacent land has minimal vegetative cover or slopes greater than 30 percent.

Section 23. FWRC 19.145.460 is hereby amended to read as follows:

19.145.460 Classification of capture zones.

As required by WAC 365-196-485(1)(d) (Critical Areas), the city shall protect the quality and quantity of ground water used for public water supplies.

The Lakehaven Utility District (“LUD”) has designated four capture zones based on proximity to and travel time of groundwater to ~~the city’s public water source wells~~ Group A and Group B public water supplies.

(1) Six-month capture zone represents the land area overlaying the six-month time-of-travel zone of any public water source well owned by LUD.

(2) One-year capture zone represents the land area overlaying the one-year time-of-travel zone of any public water source well owned by LUD, excluding the land area contained in the six-month capture zone.

(3) Five-year capture zone represents the land area overlaying the five-year time-of-travel zone of any public water source well owned by LUD, excluding the land area contained in the six-month and one-year capture zones.

(4) Ten-year capture zone represents the land area overlaying the 10-year time-of-travel zone of any public water source well owned by LUD, excluding the land area contained in the six-month, one-year, and five-year capture zones.

Section 24. FWRC 19.145.520 is hereby amended to read as follows:

Article VI. Frequently Flooded Areas

19.145.520 Frequently flooded areas.

(1) Frequently flooded areas include all areas of special flood hazard as mapped within the city, and other areas that could be threatened by flooding. The areas of special flood hazard are identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “The Flood Insurance Study for Federal Way,” dated May 16, 1995, and any revisions thereto, with an accompanying flood insurance rate map, and any revisions thereto. Based on the landscape of the city, frequently flooded areas occur only along the Puget Sound shoreline and are within the jurisdiction of the shoreline master program, Chapter 15.05 FWRC, Shoreline Management.

(2) Development in frequently flooded areas shall be subject to the provisions in FWRC ~~Title 15~~ Chapter 19.142 Flood Damage Prevention.

Section 25. Amendment Authority. The adoption of the SMP, and FWRC amendments are pursuant to the authority granted by Chapters 36.70A and 35A.63 RCW, and pursuant to chapter 19.80 FWRC.

Section 26. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect

the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 27. Savings Clause. The existing Title 15 FWRC Shoreline Management and Chapter 19.145 Environmentally Critical Areas shall remain in full force and effect until these amendments become operative upon the effective date of this ordinance.

Section 28. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 29. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 30. Effective Date. This ordinance shall take effect and be in force fourteen (14) days after Ecology's final action approving the SMP Update, as provided by law.

PASSED by the City Council of the City of Federal Way this 2nd day of July, 2019.

[signatures to follow]

CITY OF FEDERAL WAY:

JIM FERRELL, MAYOR

ATTEST:

STEPHANIE COURTNEY, CMC, CITY CLERK

APPROVED AS TO FORM:

J. RYAN CALL, CITY ATTORNEY

FILED WITH THE CITY CLERK: _____

PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

ORDINANCE NO.: _____