



Meeting Agenda

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, July 19, 2016

7:00 PM

Council Chambers

1. ROLL CALL

1.A ANNOUNCEMENTS

1.B APPROVAL OF AGENDA

2. SPECIAL RECOGNITION

- 2.A** [16-0862](#) Special Recognition - Thurston Community Television (TCTV) New Name Rollout

3. PUBLIC COMMUNICATION

(Estimated Time: 0-30 Minutes) (Sign-up Sheets are provided in the Foyer.)

During this portion of the meeting, citizens may address the City Council regarding items related to City business, including items on the Agenda. In order for the City Council to maintain impartiality and the appearance of fairness in upcoming matters and to comply with Public Disclosure Law for political campaigns, speakers will not be permitted to make public comments before the Council in these three areas: (1) on agenda items for which the City Council either held a Public Hearing in the last 45 days, or will hold a Public Hearing within 45 days, or (2) where the public testimony may implicate a matter on which the City Council will be required to act in a quasi-judicial capacity, or (3) where the speaker promotes or opposes a candidate for public office or a ballot measure.

Individual comments are limited to three (3) minutes or less. In order to hear as many people as possible during the 30-minutes set aside for Public Communication, the City Council will refrain from commenting on individual remarks until all public comment has been taken. The City Council will allow for additional public comment to be taken at the end of the meeting for those who signed up at the beginning of the meeting and did not get an opportunity to speak during the allotted 30-minutes.

COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)

4. CONSENT CALENDAR

(Items of a Routine Nature)

- 4.A** [16-0863](#) Approval of July 12, 2016 Study Session Meeting Minutes

Attachments: [Minutes](#)

- 4.B** [16-0865](#) Approval of July 12, 2016 City Council Meeting Minutes

Attachments: [Minutes](#)

- 4.C** [16-0807](#) Approval of Interlocal Agreement with Thurston County for

Transportation Services

Attachments: [Interlocal Agreement](#)

- 4.D [16-0845](#) Approval of an Interlocal Agreement Between the City of Olympia and the Washington State Criminal Justice Training Center (CJTC) to Provide a Trainer to CJTC
- Attachments:** [Contract](#)

4. SECOND READINGS

- 4.E [15-1140](#) Approval of Ordinance Adding Shoreline Master Program to Development Code and Comprehensive Plan
- Attachments:** [Ordinance](#)

4. FIRST READINGS**5. PUBLIC HEARING****6. OTHER BUSINESS**

- 6.A [16-0851](#) Briefing of Olympia Municipal Community Court

Attachments: [Quick Facts](#)
[Court Policy](#)
[Needs Assessment Form](#)
[Court Order](#)
[Court Grant](#)
[Project Goals](#)
[Court Brochure](#)
[Provider Information](#)

- 6.B [16-0745](#) Approval of Amended Critical Areas Ordinance

Attachments: [Ordinance](#)

- 6.C [16-0844](#) Briefing on the Preliminary Capital Facilities Plan (CFP)

7. CONTINUED PUBLIC COMMUNICATION

(If needed for those who signed up earlier and did not get an opportunity to speak during the allotted 30 minutes)

8. REPORTS AND REFERRALS**8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS**

8.B CITY MANAGER'S REPORT AND REFERRALS**9. ADJOURNMENT**

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Council meeting, please contact the Council's Executive Assistant at 360.753.8244 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.



City Council

Special Recognition - Thurston Community Television (TCTV) New Name Rollout

Agenda Date: 7/19/2016
Agenda Item Number: 2.A
File Number: 16-0862

Type: recognition **Version:** 1 **Status:** Recognition

Title

Special Recognition - Thurston Community Television (TCTV) New Name Rollout

Recommended Action

Committee Recommendation:

Not referred to a committee

City Manager Recommendation:

Recognize the rollout of a new name for Thurston Community Television (TCTV).

Report

Issue:

Whether to recognize the rollout of a new name for TCTV.

Staff Contact:

Kellie Purce Braseth, Strategic Communications Director, 360.753.8361

Presenter(s):

Deborah Vinsel, CEO, Thurston Community Television



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601 4th Avenue E.
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360-753-8244

City Council

Approval of July 12, 2016 Study Session Meeting Minutes

Agenda Date: 7/19/2016
Agenda Item Number: 4.A
File Number: 16-0863

Type: minutes **Version:** 1 **Status:** Consent Calendar

Title

Approval of July 12, 2016 Study Session Meeting Minutes



Meeting Minutes - Draft

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, July 12, 2016

5:00 PM

Council Chambers

Multi-Jurisdictional Work Session on Housing

1. ROLL CALL

The following Commissioners and Councilmembers were in attendance:

Thurston County Commissioners

Bud Blake
Sandra Romero
Cathy Wolfe

Tumwater City Council

Pete Kmet
Joan Cathey
Ed Hildreth
Nicole Hill
Neil McClanahan
Tom Olvia
Debbie Sullivan
Elieen Swarthout

Lacey City Council

Andy Ryder
Cynthia Pratt
Virgil Clarkson
Jeff Gadman
Lenny Greenstein
Michael Steadman

Present: 7 - Mayor Cheryl Selby, Mayor Pro Tem Nathaniel Jones, Councilmember Jessica Bateman, Councilmember Jim Cooper, Councilmember Clark Gilman, Councilmember Julie Hankins and Councilmember Jeannine Roe

2. BUSINESS ITEM

2.A [16-0819](#) Multi-Jurisdictional Work Session on Housing

Mayor Selby welcomed each jurisdiction to the meeting. She introduced Tumwater Mayor Pete Kmet who made opening remarks and acted as the meeting facilitator. Mayor Kmet noted the meeting is for information sharing only and jurisdictions will not

be making decisions.

Contractor with Thurston County Aaron Rodriguez discussed his work to revise the Thurston County Ten-Year Homeless Housing Plan.

Tumwater City Administrator John Doan, Olympia City Manager Steve Hall, Lacey Mayor Andy Ryder and Commissioner Bud Blake discussed the ongoing efforts and experiences in addressing issues of homelessness in their jurisdictions.

Mike McCormick of Home Fund discussed how there are not enough resources to address homelessness in the Community.

Family Support Center Executive Director Shelly Slaughter reported the federal safety net for housing has been falling apart since the recession. She noted homelessness is significantly on the rise, with a 23% increase in Thurston County in the past year, highlighting many of the homeless are children. Ms. Slaughter said there are not enough affordable housing units being built to accommodate population growth.

United Way Executive Director Paul Knox described a proposed Levy which would support the development of affordable housing. He would like the three cities and the County to move forward and work together towards a Levy for 2017.

Meeting attendees asked clarifying questions and discussed the issues.

Mayor Kmet and Mayor Selby thanked everyone for attending.

The Study Session was completed.

3. ADJOURNMENT

Mayor Selby adjourned the meeting at 6:45 p.m.



City Hall
601 4th Avenue E.
Olympia, WA 98501
360-753-8244

City Council

Approval of July 12, 2016 City Council Meeting Minutes

Agenda Date: 7/19/2016
Agenda Item Number: 4.B
File Number: 16-0865

Type: minutes **Version:** 1 **Status:** Consent Calendar

Title

Approval of July 12, 2016 City Council Meeting Minutes



Meeting Minutes - Draft

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, July 12, 2016

7:00 PM

Council Chambers

1. ROLL CALL

Present: 7 - Mayor Cheryl Selby, Mayor Pro Tem Nathaniel Jones, Councilmember Jessica Bateman, Councilmember Jim Cooper, Councilmember Clark Gilman, Councilmember Julie Hankins and Councilmember Jeannine Roe

1.A ANNOUNCEMENTS

1.B APPROVAL OF AGENDA

The agenda was approved.

2. SPECIAL RECOGNITION

2.A [16-0825](#) Special Recognition for Lon Wyrick Executive Director for the Thurston Regional Planning Council (TRPC)

Community Planning & Development Director Keith Stahley introduced Lon Wyrick, retiring Executive Director for the Thurston Regional Planning Council. Mayor Pro Tem Jones read a proclamation honoring Mr. Wyrick. Mr. Wyrick said a few words of thanks.

The recognition was received.

2.B [16-0792](#) Special Recognition - 2016 Fire Ops

Deputy Chief Greg Wright introduced Olympia Fire Fighters IAFF Local 468 representative Mike Simmons. Mr. Simmons explained Fire Ops allows administrators and elected officials to experience the work of firefighters for a day in order to understand their training and support needs.

Councilmember Gilman discussed his recent experience at Fire Ops and expressed his understanding of how highly technical, time sensitive and demanding the work of those who keep our homes and communities safe from fire.

The recognition was received.

3. PUBLIC COMMUNICATION

The following people spoke: Phil Cornell, Ali Marie Baker, Michael Savoca, Tamborine Borelli, Tim Kelly, Judith Sue Laghans, James Turpin, Steve Lezan, Jami Lund, Peter

Bohmer, Ray Guerra, James Booth, Michael Foster, Pat Holme and Shauna Stewart.

COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)

4. CONSENT CALENDAR

- 4.A** [16-0817](#) Approval of June 11, 2016 City Council Mid-Year Retreat Meeting Minutes

The minutes were adopted.

- 4.B** [16-0789](#) Approval of June 21, 2016 Study Session Meeting Minutes

The minutes were adopted.

- 4.C** [16-0790](#) Approval of June 21, 2016 City Council Meeting Minutes

The minutes were adopted.

- 4.D** [16-0821](#) Bills and Payroll Certification

Payroll check numbers 88947 through 89063 and Direct Deposit transmissions:
Total: \$6,737,620.20; Claim check numbers 3674499 through 3675875: Total:
\$4,075,993.82.

The decision was adopted.

- 4.E** [16-0785](#) Approval of Appointment of Nancy Clauson (Peterson) to the Capital Area Regional Public Facilities Board

The decision was adopted.

- 4.F** [16-0754](#) Approval of Community Development Block Grant (CDBG) Program Year 2016 Action Plan

The decision was adopted.

4. SECOND READINGS

- 4.G** [16-0521](#) Approval of Low Impact Development (LID) Code Revisions Ordinance

The ordinance was adopted on second reading.

4. FIRST READINGS

- 4.H** [15-1140](#) Approval of Ordinance Adding Shoreline Master Program to Development Code and Comprehensive Plan

The ordinance was approved on first reading and moved to second reading.

to the City Council due back on 7/19/2016

Approval of the Consent Agenda

Councilmember Hankins moved, seconded by Mayor Pro Tem Jones, to adopt the Consent Calendar. The motion carried by the following vote:

Aye: 7 - Mayor Selby, Mayor Pro Tem Jones, Councilmember Bateman, Councilmember Cooper, Councilmember Gilman, Councilmember Hankins and Councilmember Roe

5. PUBLIC HEARING

5.A [16-0801](#) Public Hearing and Consideration of a Resolution for a Community Renewal Plan

Before the agenda item began the meeting adjourned for 20 minutes due to disruption.

Community Planning & Development Director Keith Stahley discussed the proposed resolution for the Community Renewal Plan as recommended by the Community Economic Revitalization Committee.

Jay Reich, of the Pacifica Law Group, outlined the legal context in which the decision making of the Council will take place.

Lorelei Juntunen, of ECONorthwest, gave an overview of the Community Renewal Plan process and how it applies to the Griswold's project.

Renee Sunde reviewed the Request for Proposals details and a draft timeline.

Councilmembers asked clarifying questions.

Mayor Selby opened the public hearing at 8:55 p.m. The following people spoke: Connie Phegley, Bonnie Jacobs, Vida Zvirzdys-Farler, Mary Corso, Erik Lee, Bob Jacobs, Elise Rhiner, Michael Cade, and Beverly Bassett.

Mayor Selby closed the public comment at 9:22 p.m.

The public hearing was held and the resolution was adopted.

6. OTHER BUSINESS

6.A [16-0826](#) Approval of a Request for Proposal for the City-owned Property known as the Former Griswold Property

The resolution was adopted.

6.B [16-0697](#) Briefing on the Comprehensive Plan Action Plan

Community Planning & Development Deputy Director Leonard Bauer briefed the Council on the Action Plan for the Comprehensive Plan. He reviewed what is included in the scope, timeline, and feedback from participants. Mr. Bauer also walked through the website and indicators for the Comprehensive Plan. He reviewed next steps and asked the Council to approve the framework of the plan as described.

Councilmembers asked clarifying questions and agreed to allow staff to move forward with the plan.

The discussion was completed.

6.C [16-0833](#) Approval of a Resolution Concerning Inadequate Public Funding of Higher Education and a Regressive State Tax System

City Manager Steve Hall gave a timeline of the Opportunity of Olympia initiative and related tax ordinances. He discussed next steps for the initiative noting the Thurston County Auditors office is still validating signatures. Should there be enough signatures the ordinance will come before the Council with two options, pass the proposed ordinance or have a resolution to direct the Auditor to hold a special election.

Mayor Pro Tem Jones discussed the resolution, two referrals to General Government and a motion for legal review of the Opportunity for Olympia initiative should the Auditor issue certification of sufficient valid signatures.

The referrals to General Government are as follows:

1. Develop a project plan, provide progress reporting and deliver a report within one year which defines the impact of regressive taxation on local residents and on the local economy.
2. Develop a project plan, provide progress reporting and deliver a report within one year which defines the impact of poor access to education on local residents and on the local economy.

Councilmembers asked clarifying questions.

The resolution was adopted and the referrals to General Government were approved.

Aye: 7 - Mayor Selby, Mayor Pro Tem Jones, Councilmember Bateman, Councilmember Cooper, Councilmember Gilman, Councilmember Hankins and Councilmember Roe

Mayor Pro Tem Jones moved, seconded by Mayor Selby, that upon the Auditor's certification of sufficient valid signatures for Opportunity for Olympia's initiative petition, the City Manager be authorized to take all reasonable steps on behalf of the City of Olympia and this Council, to obtain a judicial determination whether the initiative is a lawful, valid exercise of the

initiative power granted to Olympia's citizens under state law, and if not, to obtain an injunction prohibiting such initiative measure from appearing on the November ballot. The motion includes authorization for the City Manager to pursue any appeals as may be necessary before the appellate courts of this state.

The motion was approved by the following vote:

Aye: 7 - Mayor Selby, Mayor Pro Tem Jones, Councilmember Bateman, Councilmember Cooper, Councilmember Gilman, Councilmember Hankins and Councilmember Roe

7. CONTINUED PUBLIC COMMUNICATION

The following people spoke: Stan Sorscher and Vida Zvirzdys-Farler.

8. REPORTS AND REFERRALS

8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

Mayor Pro Tem Jones noted Lake Fair begins on Wednesday, July 13.

8.B CITY MANAGER'S REPORT AND REFERRALS

City Manager Hall noted most residents heeded the fireworks ban on July 4.

9. ADJOURNMENT

The meeting adjourned 10:30 p.m.



City Council

Approval of Interlocal Agreement with Thurston County for Transportation Services

Agenda Date: 7/19/2016
Agenda Item Number: 4.C
File Number: 16-0807

Type: decision **Version:** 1 **Status:** Consent Calendar

Title

Approval of Interlocal Agreement with Thurston County for Transportation Services

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve and authorize the Mayor to sign the Interlocal Agreement with Thurston County for Transportation Services.

Report

Issue:

Whether to enter into an Interlocal Agreement with Thurston County for Transportation Services.

Staff Contact:

Mark Russell, P.E., Director of Transportation, Public Works, 360.753.8762

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

Since 2010, the City and Thurston County have cooperated under an interlocal agreement to provide transportation services for each other. For example, the City maintains several County traffic signals while the County applies paint striping on City roads each year. This is an efficient use of each agency's resources and expertise to complete specific maintenance activities.

The previous interlocal agreement expired at the end of 2015. Staff from both agencies want to continue to share resources. The proposed interlocal agreement is similar to the previous one and will be valid for up to ten (10) years, unless it is modified or terminated sooner. Examples of maintenance activities or services each agency can provide are included in Exhibit A of the agreement.

This interlocal agreement does not commit either agency financially. Costs for specific service

requests are agreed upon on a case-by-case basis.

Neighborhood/Community Interests (if known):

None known.

Options:

1. Approve and authorize the Mayor to sign the Interlocal Agreement with Thurston County for Transportation Services. Both the City and County will continue to use each other's expertise and resources to complete needed maintenance work.
2. Do not approve the Interlocal Agreement with Thurston County for Transportation Services. Both the City and County will need to find other resources or contracts that are more expensive in order to complete needed maintenance work.

Financial Impact:

Funding for City requests come from the approved Transportation operations and maintenance budget. The maximum amount of work each agency can request is \$300,000 per calendar year.

Attachments:

Interlocal Agreement

**2016 MASTER INTERLOCAL AGREEMENT
BETWEEN CITY OF OLYMPIA AND THURSTON COUNTY
FOR TRANSPORTATION SERVICES**

This Agreement is entered into in duplicate originals this _____ day of _____, 20____ between the CITY OF OLYMPIA, a municipal corporation (hereinafter "City"), and THURSTON COUNTY, a municipal corporation (hereinafter "County"), collectively referred to as "parties" and individually as "party" pursuant to RCW 39.34.080.

WHEREAS, it is to the mutual advantage of Thurston County and the City of Olympia to cooperate as described herein in order to make the most efficient use of their resources to provide services and facilities needed by the citizens residing within their respective jurisdictions; and

WHEREAS, RCW 39.34.080 authorizes a public agency to contract with another public agency to perform any governmental service, activity, or undertaking that each public agency is authorized by law to perform;

NOW THEREFORE, by virtue of RCW 39.34.080 and in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

**I
GENERAL**

- 1.0 It is the purpose of the Agreement to permit the parties to make the most efficient use of their resources by enabling them to cooperate by furnishing each other manpower and materials when available on a reimbursable basis for traffic services and roadway maintenance activities. This will be done with the understanding that the work of the owner of the requested resources takes first priority.

**II
DURATION**

- 2.0 This Agreement shall become effective on the date written above and shall remain in effect for five (5) years and automatically renew for an additional five (5) years unless changed, modified, amended, or terminated sooner as provided for herein. The total duration of this Agreement shall not exceed ten (10) years. Prior to commencement, this Agreement shall be filed or posted in accordance with RCW 39.34.040.

**III
REQUEST FOR SERVICES**

- 3.0 Each request for service pursuant to this Agreement shall be submitted by the Public Works Director or designee on behalf of each entity and shall specifically reference its authority pursuant to this Agreement. Examples of the types of services that each party may provide to the other party are contained in Exhibit A attached hereto and incorporated herein by reference. Each request for service shall be in writing and shall specify the particular service required, the amounts and types of labor, equipment, and material required, the location of the work, the estimated cost of the work, when the work is to be performed, and other information pertinent to the request. Upon receipt of the request, the party from whom the service has been requested shall indicate their acceptance or rejection of the request, have it signed by their authorized official, and return one (1) copy to the requesting party. The authorized official for Thurston County is the Director of the Public Works Department or his/her written designee. The authorized official for the City of Olympia is the Director of Transportation or his/her written designee. If either party has provided for a designee, that party shall provide notice to the other

so that each party has notice of who is authorized to make and approve requests under this Agreement. In cases of emergency, the request and approval may be done verbally but must be documented in writing within two working days of the verbal request. Each accepted request for service shall be incorporated into and become a part of this Agreement.

IV PAYMENT

- 4.0 The parties to this Agreement agree that the party receiving services under this Agreement shall reimburse the party providing the services for their actual direct and related indirect costs as set out in the request of services document. Upon request of the providing party, the party receiving services shall make partial payments to cover costs incurred. These payments are not to be more frequent than one (1) per month. Neither party shall pay the other for any work in advance of performance. It is agreed that any such partial payment will not constitute agreement as to the appropriateness of any item.
- 4.1 The maximum amount payable for work to be performed under this Agreement is three-hundred thousand dollars (\$300,000) per calendar year unless otherwise amended in accordance with section XIV, Changes, Modifications, and Amendments.

V RECORDS RETENTION AND AUDIT

- 5.0 During the progress of the work and for a period not less than six (6) years from the final date of payment, the records and accounts pertaining to the work and accounting therefore are to be kept available for inspection and audit by either party and/or the Federal Government and copies of all records, accounts, documents, or other data pertaining to the work will be furnished upon request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the 6-year retention period. Each party will promptly notify the other of any such litigation hold on records.

VI RIGHT OF ENTRY

- 6.0 The parties to this Agreement hereby grant and convey to each other the right of entry upon all land in which the parties have interest, within or adjacent to the right of way of the highway, road, or street for the purpose of accomplishing all work or services requested as part of this Agreement.

VII RELATIONSHIP OF THE PARTIES

- 7.0 The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party. This Agreement is for the benefit of the parties, and no third party beneficiary relationship is intended. No separate legal entity is created by this Agreement. No joint organization is created. No common budget is to be established. No personal or real property is to be jointly acquired or held.

VIII HOLD HARMLESS AND INDEMNIFICATION

- 8.0 The County shall hold harmless, indemnify and defend the City, its officers, officials, employees and agents, solely for third party claims relating to bodily injury or death, including costs and attorney's fees

in defense thereof, caused by or arising out of the County's negligence in the performance of this Agreement.

- 8.1 With regard to paint striping work done or caused to be done by the County on City streets, the City agrees to be responsible for the claims management, resolution, and payment of claims arising out of the paint striping work resulting in real or personal property damage or destruction. The City is not responsible for claims related to the paint striping work that are determined to be caused by the County's sole negligence. For work other than paint striping, each Party agrees to be responsible for the claims management, resolution, and payment of claims arising out of their own work resulting in real or personal property damage or destruction. "Claim" means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable to damage or destruction of real or personal property, including loss of use, resulting therefrom.
- 8.2 The City shall hold harmless, indemnify and defend the County, its officers, officials, employees and agents, solely for third party claims relating to bodily injury, or death including costs and attorney's fees in defense thereof, caused by or arising out of the City's negligence in performance of this Agreement.
- 8.3 The County's obligations and the City's obligations hereunder shall not extend to bodily injury or death caused by or arising out of the sole negligence of either party, its officers, officials, employees or agents.
- 8.4 In the event of the concurrent negligence of the parties, the County's and the City's obligations hereunder shall apply only to the extent of each party's negligence, and the negligence of, its officers, officials, employees or agents. Each party agrees for the purposes of the indemnification in this Agreement to waive its title 51 coverage solely for the purpose of such indemnification. This section has been mutually negotiated by the parties. The foregoing waiver shall not in any way preclude either party from raising such immunity as a defense against any claim brought against that party by any of its employees.
- 8.5 The provisions of this Hold Harmless and Indemnification section shall survive the expiration or termination of this Agreement and completion of the request for services.

IX INSURANCE

- 9.0 Both parties shall maintain Commercial General Liability or equivalent for bodily injury, personal injury and property damage, subject to limits of not less than \$1,000,000 per loss. The general aggregate limit shall apply separately to this Agreement and be no less than \$2,000,000. Participation in a governmental self-insured risk pool shall fulfill the above stated coverage requirements. An Evidence of Coverage acknowledgement letter from the jurisdictions' risk pools will be provided to each party upon request.
- 9.1 Both parties shall maintain workers' compensation insurance as required by Title 51 RCW, and shall provide evidence of Coverage to the each party's Risk Manager or Risk Management Division upon request.
- 9.2 Both parties shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced with written notice mailed to the other party.

X TERMINATION

- 10.0 Either party may terminate this Agreement upon ninety (90) calendar days prior written notice to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

**XI
LEGAL RELATIONS**

- 11.0 No liability shall attach to the parties by reason of entering into this Agreement except as expressly provided herein.

**XII
FORCE MAJEURE**

- 12.0 Neither party will be liable to the other or deemed in default under this Agreement if and to the extent that such party's performance of this Agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure will include, without limitation by the following enumeration: acts of nature, acts of civil or military authorities, fire, epidemics, civil or public disturbances, or other similar occurrences. If any party is unable to perform under this Agreement due to a force majeure event, upon giving notice and reasonably full particulars to the other party, such obligation or condition will be suspended only for the time and to the extent commercially practicable to restore normal operations.

**XIII
ADMINISTRATION**

- 13.0 The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. Wherever written notice is required under this Agreement, such notice shall be provided to the representatives designated below. In the event such representatives are changed, the party making the change shall notify the other party.

The County's representative shall be the County Engineer (9605 Tilley Rd SW, Olympia WA 98512, 360-867-2300).

The City's representative shall be the Director of Transportation (601 4th Avenue E, Olympia WA 98501, 360-753-8762).

**XIV
CHANGES, MODIFICATIONS, AND AMENDMENTS**

- 14.0 This Agreement may be changed, modified, amended or waived only by written agreement executed by each party's authorized governing authority as provided in chapter 39.34 RCW.

**XV
GOVERNING LAW AND VENUE**

- 15.0 This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington both as to its interpretation and performance. Any action at law, suit in equity, or judicial proceeding arising out of this Agreement shall be instituted and maintained only in a court of competent jurisdiction in Thurston County, Washington.

**XVI
WAIVER**

- 16.0 A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights

under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

**XVII
SEVERABILITY**

17.0 If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Board of County Commissioners
Thurston County, Washington

Mayor
City of Olympia, Washington

Chair

Mayor

Vice-Chair

Commissioner

ATTEST:

ATTEST:

Clerk of the Board

City of Olympia Clerk

Approved as to form:

Approved as to form:

JON TUNHEIM
PROSECUTING ATTORNEY

By: *Catherine Galvin*
Deputy Prosecuting Attorney

By: *J. Markson*
Deputy City Attorney

EXHIBIT A Authorized Activities

Traffic Services: The following are examples of traffic services that may be provided by either party.

- Sign Maintenance: Replacing signs, removal of signs, and installation of new signs, posts and bases.
- Crosswalks: Refurbishing with preformed plastic or removal.
- Stop Bars: Refurbishing with preformed plastic or removal.
- Arrows/Legends: Remarketing worn arrows with preformed plastic or removal.
- Striping: Painting linear road stripes on pavement, such as centerlines and edge lines.
- Traffic counts, data collection and other technical traffic services.
- Roadway pavement ratings and data collection.
- Traffic Signal Maintenance and Operations.
- Street Light Maintenance.
- Technical and Maintenance Training.

Roadway Maintenance: The following are examples of roadway maintenance services that may be provided by either party. It is the responsibility of the requesting party to define the limits of the area of work where the Roadway Maintenance is to take place.

- Traveled Roadway Surface: Patching, crack pouring, pre-level work, pavement replacement, pavement preservation, chip seals, overlays, grading.
- Drainage: Drainage pipe repair, catch basin and manhole cleaning, blade ditching/shoulder pulling, drainage systems cleaning, drainage preparation, catch basin repair, culvert header/trash rack replacement and repair, bucket ditching, catch basin replacement, erosion control, catch basin/manhole cover replacement, silt removal and street sweeping.
- Structures: Guardrail repair, retaining wall repair, guardrail post removal, fencing repair, non-structural bridge maintenance.
- Pedestrian Facilities: Sidewalk/walkway repair.
- Roadside: Slope/shoulder mowing, tree removal, slide removal, noxious weed control, tree trimming, and washout repair.



City Council

Approval of an Interlocal Agreement Between the City of Olympia and the Washington State Criminal Justice Training Center (CJTC) to Provide a Trainer to CJTC

Agenda Date: 7/19/2016
Agenda Item Number: 4.D
File Number: 16-0845

Type: decision **Version:** 1 **Status:** Consent Calendar

Title

Approval of an Interlocal Agreement Between the City of Olympia and the Washington State Criminal Justice Training Center (CJTC) to Provide a Trainer to CJTC

Recommended Action

Committee Recommendation:

Not referred to a committee

City Manager Recommendation:

Move to approve and authorize the Mayor to sign the interlocal agreement between the CJTC and the City to allow an Olympia Police officer to train at the CJTC.

Report

Issue:

Whether to authorize an officer from the Olympia Police Department to serve as a trainer at the CJTC in exchange for a full reimbursement of salary and benefit costs for the officer.

Staff Contact:

Lt. Paul Lower
Olympia Police Department
360.753.8410

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

The CJTC, by law, provides training to all Washington State law enforcement and corrections professionals, with the exception of Washington State Patrol (who has their own training center.) The CJTC needs experienced police and corrections officers to serve as trainers in a variety of areas. Officers who are currently serving can give the students they train a real-life view of the subjects they teach. The City of Olympia is well-regarded as a Department that both has high standards for its

employees and who has excellent trainers. Officer Paul Evers is a veteran Olympia police officer with considerable instruction experience at the Olympia Police Department (OPD). He will be an asset to CJTC. In consideration of "lending" Officer Evers to the CJTC, the State will reimburse the City for 100% of Officer Evers' pay and benefits. The Department will hire an additional officer to fill the vacancy.

Neighborhood/Community Interests (if known):

NA

Options:

Approve the interlocal agreement with the CJTC and provide them with Officer Paul Evers as a trainer.

Do not approve the interlocal and the City will not provide CJTC with a trainer.

Modify the interlocal to amend the terms of the agreement.

Financial Impact:

No impact. The City will be reimbursed for the entire cost of Officer Evers' salary and benefits, approximately \$138,500.

Attachments:

Interlocal agreement



WASHINGTON STATE CRIMINAL JUSTICE TRAINING COMMISSION

Susan L. Rahr, Executive Director

19010 1st Avenue South • Burien, WA 98148 • Phone: 206-835-7300 • www.cjtc.state.wa.us

AGREEMENT

This agreement is made and entered into by and between the City of Olympia and the **Washington State Criminal Justice Training Commission**, hereinafter referred to as the "Commission".

Whereas **Paul Evers** is employed by the City of Olympia Police Department as an employee, holding the position of Officer therein; and

Whereas the Commission, pursuant to Chapter 43.101.RCW, is empowered to provide programs and standards for the training of criminal justice personnel and in conjunction therewith may contract with individuals and agencies for the purpose of training; and

Whereas the Commission desires to contract with the City of Olympia for the full-time services of **Paul Evers** in administering, conducting, and presenting this state's Basic Law Enforcement Academy program;

Now therefore, for and in consideration of the mutual promises set forth hereafter, the parties hereto mutually agree as follows:

(1) Term

This agreement shall commence on the **1st day of July, 2016** and terminate on the **30th day of June, 2019**, subject to prior termination as provided herein and unless as extended by written mutual agreement of the parties hereto.

(2) Duties of the City of Olympia

The City of Olympia shall provide the full-time services of **Paul Evers** to the Commission for the purpose of administering, conducting, and presenting the state's Basic Law Enforcement Academy program. Such services shall include, but not be limited to:

- (a) Providing classroom instruction in assigned subjects.
- (b) Creating written and practical exercises relating to classroom instruction.
- (c) Writing test material.
- (d) Researching/updating classroom instruction and teaching materials.
- (e) Tutoring/counseling recruit officers.
- (g) Grading exams.
- (h) Assisting and coordinating practical training exercises.
- (i) Suggesting revisions to academy programs and curriculum.

(3) Consideration

In consideration of those services provided under this agreement, the Commission shall reimburse to the City of Olympia its full payment of salary to **Paul Evers**, including all benefits and all increases to said salary or benefits, during the period of **Evers'** service to the Commission herein under. The Commission

shall pay said reimbursement amount upon submission by the City of Olympia Police Department of a monthly invoice to the Commission at 19010 1st Ave South, Burien, WA 98148.

(4) Agreements Outside of This Agreement

This agreement contains the complete agreement between the parties and shall, as of the effective date hereof, supersede all agreements, either written or oral, between the parties. The parties agree that neither of them has made any representations with respect to the subject matter of this agreement or any representations, including the executing and delivery hereof, except such representations as are specifically set forth herein; and each of the parties hereto acknowledges that it has relied on its own judgment in entering into this agreement.

(5) Modification

No waiver or modification of this agreement or any covenants, conditions, or limitations herein contained shall be valid unless in writing and duly executed by the parties to be charged therewith; and no evidence of any waiver or modification shall be offered or received in evidence of any proceeding or litigation between the parties hereto arising out of or affecting this agreement, or the rights or obligations of the parties herein under, unless such waiver or modification is in writing duly executed as aforesaid; and the parties further agree that the provisions of this section may not be waived except as herein set forth.

(6) Termination of Agreement

This agreement may be terminated without cause at any time by mutual agreement of the parties hereto, or by either party after sixty-days (60) following the other party's receipt of a written intent to terminate.

The parties retain the right to cancel this agreement upon ten (10) days written notice to the other party if either party fails to properly keep any of the provisions of this agreement. In the event of termination under this section, the City of Olympia will be entitled to receive, to the date of such termination on a pro rata basis, the compensation as set forth in section (3) herein.

(7) Employment Obligations of Parties

The City of Olympia agrees to pay to **Paul Evers** the full salary and benefits, including all increases to said salary and benefits, accruing to him as an employee of the City of Olympia during the period of his services herein under. Additionally, the City of Olympia agrees to extend to **Paul Evers** all rights, privileges, and benefits attendant to and resulting from his employment by the City of Olympia, including any and all promotional opportunities otherwise available to him. The City of Olympia further agrees that upon completion and conclusion of **Paul Evers'** service herein under, and in the absence of any promotion or upgrading in classification which has occurred during the duration of this agreement and in the absence of any disciplinary action taken during the duration of this agreement, he will be returned and reinstated to the City of Olympia Police Department at the same or equal commissioned rank or position which he held on the beginning date of this agreement.

The Commission agrees to effect all necessary evaluation and documentation regarding **Paul Evers** during the period of his service herein under and as required by the City of Olympia. The City of Olympia reserves the right to discipline Officer Evers for any violation of Olympia Police Department rules in the same manner as other Olympia Police Department employees. The Commission additionally agrees to provide **Paul Evers** a work and learning experience and professional opportunities for career development and enrichment at no special cost or direct cost to the City of Olympia.

(8) Indemnification/Hold Harmless

The Commission shall defend, indemnify and hold the City of Olympia, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the negligent acts, errors or omissions of the Commission occurring (a) in performance of services reasonably related to this Agreement and (b) either at the request of or under the direction and control of the Commission, its agents or employees, except for injuries and damages caused by the negligence of the City of Olympia, its officers, officials, employees and volunteers other than Paul Evers. The Commission agrees to defend, indemnify, and hold the City of Olympia, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses, or suits, arising out of the services provided by Paul Evers under the direction and control of the Commission described in Section 2 above.

(9) Medical/Health and Workers' Compensation Benefits

In the event of any injury to, or the illness or death of **Paul Evers** while acting in performance of this agreement, the City of Olympia agrees to extend to **Paul Evers** medical / health and workers' compensation benefits and other compensation, to the same extent and in the same manner as if such injury, illness, or death had occurred during work assignment in and for the City of Olympia.

(10) Venue Stipulation

This agreement shall be construed as having been made and delivered with the State of Washington, and the laws of the State of Washington shall be applicable to its construction and enforcement. Any action at law, suit in equity, or judicial proceeding for the enforcement of this agreement or any provision hereto shall be instituted in King County, Seattle, Washington.

(11) Assignment

Each party to this agreement stipulates that the agreement is one for personal services and accordingly neither party hereto may assign, sublet, or transfer any interest in this agreement.

(12) Compliance with Laws

The parties hereto agree to comply in carrying out the terms of this agreement with all applicable federal, state, and local laws, ordinances, and regulations, including but not necessarily limited to, the laws pertaining to civil rights and laws pertaining to the Commission and the City of Olympia, including merit system rules.

(13) Notices

All notices given herein shall be in writing and shall be sent by registered mail to the parties at their recognized business addresses.

(14) Headings

The article headings contained in this agreement are inserted solely as a matter of convenience and for reference and in no way do they define, limit, or describe the scope or intent of the provisions of this agreement.

(15) Ratification.

Any work performed prior to the effective date that falls within the scope of this Agreement and is consistent with its terms is hereby ratified and confirmed.

IN WITNESS WHEREOF, the parties have affixed their signatures on the dates below.

Washington State Criminal Justice
Training Commission

City of Olympia, Washington

Sue Rahr, Executive Director Date
Criminal Justice Training Commission
19010 1st Avenue South
Burien, Washington 98148

Cheryl Selby, Mayor Date
City of Olympia
P.O. Box 1967
Olympia, WA 98507-1967

cc: Brian Elliott, Fiscal Manager, WSCJTC
 Mark Best, BLEA Acting Commander
 Officer Paul Evers, Olympia Police Department

APPROVED AS TO FORM:



CITY ATTORNEY (DCA)



City Council

Approval of Ordinance Adding Shoreline Master Program to Development Code and Comprehensive Plan

Agenda Date: 7/19/2016
Agenda Item Number: 4.E
File Number: 15-1140

Type: ordinance **Version:** 2 **Status:** 2d Reading-Consent

Title

Approval of Ordinance Adding Shoreline Master Program to Development Code and Comprehensive Plan

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve on second reading an ordinance inserting new shoreline development regulations into Title 18 of Municipal Code and new shoreline goals and policies into Natural Environment Chapter of Comprehensive Plan.

Report

Issue:

On September 24, 2015, the Director of the Washington Department of Ecology approved a new Shoreline Master Program (SMP) for the City of Olympia. This new program, which went into effect on October 8, 2015, includes new shoreline policies and development regulations. To provide ready-access by the public, staff, and others, the proposed ordinance would direct that appropriate portions of the Program as approved by Ecology be incorporated directly into the City's Comprehensive Plan and Development Code, respectively. Since October 8, 2015 staff has been administering the SMP as a standalone document.

Staff Contact:

Leonard Bauer, Deputy Director, Community Planning and Development Department, 360.753.8206

Presenter:

None; consent agenda item

Background and Analysis:

Background and analysis has not changed from first to second reading.

On September 24, 2015, an eight-year effort to comprehensively update Olympia's Shoreline Master Program (SMP) concluded with approval of the City's proposal by the Washington Department of Ecology. The new Program, substantially as proposed by the City Council in October 1, 2013, went into effect fourteen days later on October 8, 2015.

Washington's Growth Management Act provides that the Ecology-approved 'goals and policies' of local shoreline master programs are automatically an element of the local comprehensive plan and other portions are considered a part of the local development regulations. During public review of the proposed update, included in notes embedded in drafts of the Program, the City indicated that following approval by the Department of Ecology, the City would provide easy access to these aspects of the Program by appropriately inserting them into these City documents.

The proposed ordinance would affect this step by directing respective amendments of the Comprehensive Plan and Development Code. In particular these amendments would result in the shoreline goals and policies of the Olympia Shoreline Master Program being inserted into the Natural Environment Chapter of the Comprehensive Plan and available on the internet as part of that document. At the moment, the Plan includes a 'shoreline goals and policies to be inserted here' placeholder in this Chapter. Note, the Growth Management Act provides that such an amendment is an exception to the 'once per year' limit of amending the Plan.

The shoreline development regulations would become a new chapter of Title 18 of the Olympia Municipal Code, also known as the Development Code. This new chapter would replace chapter 14.08 which references the former Olympia Shoreline Master Program. Unlike chapter 14.08, the new chapter 18.20 would be integrated with Olympia's other development regulations in Municipal Code Title 18, otherwise known as the Unified Development Code or UDC. (Note, some drafts of the SMP indicated the new chapter would be numbered 18.34. The UDC structure provides that 18.20 is the appropriate numbering. Ecology staff have indicated that this clerical correction is acceptable.)

Both the Development Code and Comprehensive Plan are accessible on the internet at www.codepublishing.com/WA/Olympia/. In addition to incorporating portions of the Shoreline Master Program into these documents, the City will also make the entire Program, including appendices such as the Restoration Plan, available as a separate document on the City's website, on electronic discs, and on paper.

Neighborhood/Community Interests (if known):

Olympia's Shoreline Master Program update was the subject of intense and prolonged public interest. Ready-access to the resulting Program is an expectation of the public.

Options:

1. Approve first reading of the attached ordinance as proposed, incorporating new shoreline goals and policies into the City's Comprehensive Plan and new regulations into Title 18 of the Olympia Municipal Code.
2. Approve a modified version of the proposed ordinance.
3. Decline to approve the proposed ordinance and provide guidance to staff on next steps.

Financial Impact:

Code Publishing' is under contract to provide internet-based access to these City documents; no substantial additional costs are anticipated.

Attachments:
Ordinance

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, INCORPORATING GOALS AND POLICIES OF THE UPDATED SHORELINE MASTER PROGRAM AS APPROVED BY THE WASHINGTON STATE DEPARTMENT OF ECOLOGY INTO THE OLYMPIA COMPREHENSIVE PLAN, ADDING A NEW OLYMPIA MUNICIPAL CODE CHAPTER 18.20 AND ADOPTING SHORELINE REGULATIONS INTO THAT CHAPTER, REPEALING OLYMPIA MUNICIPAL CODE CHAPTER 14.08 – SHORELINE MASTER PROGRAM – IN ITS ENTIRETY, AND AMENDING SECTION 18.32.515 OF AND ADDING NEW SECTION 18.73.020 TO THE MUNICIPAL CODE FOR CONSISTENCY WITH AND ADMINISTRATION OF NEW CHAPTER 18.20.

WHEREAS, the Washington Shoreline Management Act requires that a local government periodically conduct a comprehensive update of its Shoreline Master Program (SMP) (see RCW 90.58.080); and

WHEREAS, commencing in 2007, the City of Olympia conducted an extensive public process in cooperation with the Washington State Department of Ecology (DOE) to substantially revise and update the City's SMP; and

WHEREAS, on October 1, 2013, the Olympia City Council adopted Resolution No. M-1797, accepting an updated SMP to be submitted to DOE for review and approval; and

WHEREAS, on September 24, 2015, the Director of the Washington State Department of Ecology issued final approval of the comprehensive update of the Olympia Shoreline Master Program effective October 8, 2015; and

WHEREAS, the City Council hereby accepts the Director's Findings and Conclusions of April 22, 2015, and the Findings and Conclusions Addendum of September 24, 2015; and

WHEREAS, the Washington State Growth Management Act (GMA) provides that the goals and policies of a shoreline master program shall be considered an element of a city's comprehensive plan and that all other portions shall be considered a part of the city's development regulations (RCW 36.70A.480); and

WHEREAS, accordingly, the introductory note to the SMP submitted to the DOE indicated that Section Two of the SMP would be incorporated into the City's Comprehensive Plan and that Section Three of the SMP would be incorporated in a new chapter of the City's development code; and

WHEREAS, the introductory note further indicated it would be necessary for the City to concurrently adopt certain other related development code amendments; and

WHEREAS, the GMA provides that amendments to adopt an SMP under the procedures of the Shoreline Management Act are an exception to the once-per-year comprehensive plan amendment limitation of the GMA (RCW 36.70A.130); and

WHEREAS, the Olympia City Council desires to make the content of the City's Shoreline Master Program goals, policies and development regulations readily accessible to the public through incorporation into the City's Comprehensive Plan and Development Code, respectively; and

WHEREAS, Chapters 35A.63, 36.70 and 90.58 RCW and Article 11, Section 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Resolution No. M-1797. The preamble to Resolution No. M-1797 is hereby adopted and incorporated as though fully set forth in this Ordinance.

Section 2. Amendment of Comprehensive Plan Natural Environment Chapter. The current Natural Environment Chapter of the Olympia Comprehensive Plan is hereby amended by deleting the sentence, "The goals and policies of the Olympia Shoreline Master Program *external link* are now being updated, and will be included here after they are approved by the Washington Department of Ecology." Further, the goals and policies of the Olympia Shoreline Master Program as set forth in Section 2 of the Program shall be added to the Olympia Comprehensive Plan following that photo captioned "Priest Point Park Shoreline" and denoted as "SMP 12.1" through "SMP 12.35" as more fully set forth in the attached Exhibit A, which is hereby incorporated by reference as though fully set forth herein.

Section 3. Repeal of Olympia Municipal Code Chapter 14.08. Olympia Municipal Code chapter 14.08 "Shoreline Master Program" is hereby repealed in its entirety, including all documents adopted by reference therein, provided that OMC Sections 14.08.030, 14.08.040, 14.08.050, and 14.08.060 are to be renumbered and readopted as New Sections 18.20.280, 18.20.285, 18.20.290 and 18.20.295, as set forth in Exhibit B, which is hereby incorporated by reference as though fully set forth herein.

**Chapter 14.08
SHORELINE MASTER PROGRAM**

14.08.000 — Chapter Contents

Sections:

~~14.08.010 — Olympia Shoreline Master Program amended.~~

~~14.08.020 — Suppression.~~

~~14.08.030 — Shoreline substantial development, conditional use, and variance permits.~~

~~14.08.040 — Amendments.~~

~~14.08.050 — Appeals of administrative decisions.~~

~~14.08.060 — Fees.~~

14.08.010 Olympia Shoreline Master Program amended

Olympia Shoreline Master Program, Chapter ~~173-19-4203-107~~, Washington Administrative Code (WAC), is amended as follows:

A. — The following paragraph is added to Page 8, following the second sentence and to Page 81, replacing paragraph 5(1):

"The Shoreline Master Program shall be administered pursuant to the procedures and policies prescribed by Section VII of this Program unless Olympia shall have adopted a local ordinance regulating such matters, in which case the provisions of the local ordinance shall prevail."

B. — The following sentence, being the first sentence on Page 80 is repealed:

"Permits are considered for issuance by the legislative bodies of local governments. (See "Permit Processing Procedure" in this section.)"

C. The following new sections are added:

1. PERCIVAL CREEK CORRIDOR

Definitions:

A. "Adjacent lands" means lands immediately adjacent to and abutting lands under permit jurisdiction of the Shoreline Management Act which extend landward to the extent necessary to control direct and significant impact to shorelands and to implement the management policy articulated in the Act, the Department of Ecology guideline, and the local Master Program. The inland extent will necessarily vary with the particular management objectives and the shoreline setting.

B. "Administrator" means a person appointed by the legislative body to administer the provisions of these regulations within the boundaries of that jurisdiction.

C. "Associated wetlands" means those lands or wetland areas which influence or are influenced by and are in proximity to any stream, river, or tidal water, or combination thereof, subject to the Shoreline Management Act (WAC 173-22-030 and 040).

D. "Associated wetlands of Black Lake" means those wetlands lying to the Northeast of Black Lake and adjoining the Black Lake Drainage Ditch, generally identified in Figure 6 Percival Creek Corridor Plan, Volume 2, 1986.

E. "Black Lake Drainage Ditch" means that human-made ditch constructed from the North end of Black Lake and extending in a northeasterly direction approximately 11,200 lineal feet to the intersection with the Burlington Northern Railroad rights-of-way, formerly part of Consolidated Drainage Improvement District No. 101.

F. "Black Lake drainage way" or "Drainage way" means those dry lands along both banks of the Black Lake Drainage Ditch which were part of the Drainage District No. 101 and are now publicly owned.

G. "Canyon" or "Percival Creek Canyon" means lands along Percival Creek which extend upstream from Percival Cove to the Mottman Road crossing of the Black Lake Drainage Ditch. This area also extends from the centerline of the Creek to the top of the bank, and includes the Burlington Northern Railroad rights-of-way.

H. "Canyon Reach Olympia Management Unit" means that portion of the Percival Creek Canyon located within the City of Olympia.

I. "Canyon Reach Tumwater Management Unit" means that portion of the Percival Creek Canyon located within the City of Tumwater.

J. "Corridor" or "Percival Creek Corridor" means those lands adjacent to Percival Creek and the Black Lake Drainage Ditch, including those areas extending upland from the centerline of the Creek to the nearest paralleling road or railroad and extending from Percival Cove to Black Lake.

K. "Drainage ditch buffer" means a required area of undisturbed natural vegetation outside of and adjacent to the drainage ditch for the purpose of protecting the drainage ditch and maintaining its natural hydrological, biological, visual and cultural functions and values.

L. "Drainage water buffer" means a required area of undisturbed natural vegetation outside of and adjacent to the drainage way for the purpose of protecting the drainage way and maintaining its natural hydrological, biological, visual and cultural functions and values.

M. "Environment," "Master Program Environment" or "Shoreline Environment" means the categories of shorelines of the State established by the Shoreline Master Program for the Thurston Region to differentiate between areas whose features imply differing objectives regarding their use and future development. These existing environments are: Urban, Rural, Conservancy and Natural.

N. "Environmental management district" means an area which has been designated by the local government as meeting certain criteria for which a special management plan, policies and regulations are prepared.

O. "Lot of record" means a lot shown as a part of a recorded subdivision or any parcel of land described by metes and bounds in a recorded deed, record of survey or other appropriate document recorded in the office of the County Auditor.

P. "Management units" means those portions of the Percival Creek Corridor which have been segregated into areas which have a predominance of similar features, land use ownership patterns and/or jurisdictional boundaries.

Q. "Middle Reach Management Unit" means those lands upstream from the Mottman Road crossing of the Black Lake Drainage Ditch to 25th Avenue extended and within the City of Olympia.

R. "Shoreline Environmental Management District" means an area of the region which contains a unique combination of physical features and/or resources which could not be safeguarded adequately simply by the preceding provisions of the Master Program; where the jurisdiction of the Shoreline Management Act is too restrictive and the activities upon adjacent lands may be critically important to the viability of the resource; where diverse uses would be conflicting and incompatible without management techniques specifically designed for that area; where the uniqueness of the area demands an even greater degree of environmental protection, then a local government may establish a special Shoreline Environmental Management District as an amendment to the Shoreline Master Program for the Thurston Region.

S. "Shoreline Management Act Jurisdiction" or "Shoreline Jurisdiction" means those lands lying within the following locations:

1. Two hundred feet on both sides of creek or drainage ditch;

2. A 100-year flood plain; and/or

3. An associated wetland.

T. "Top of the canyon" means a significant break in the slope less than 30 percent (16.7 degrees) and at least 15 feet wide not including the Burlington Northern Railroad rights-of-way. At the confluence of Percival Creek (from Trosper Lake) and the Black Lake Drainage Ditch, the "top of the canyon" for Percival Creek shall be a line drawn from the highest most point along the East bank to the corresponding side on the West bank.

U. "Upper Reach Management Unit" means those lands upstream from 25th Avenue extended along the Black Lake Drainage Ditch to Black Lake and within the City of Tumwater and Thurston County.

V. "Wetland buffer" means a required area of undisturbed natural vegetation outside of and adjacent to the wetland edge for the purpose of protecting the wetland from intrusion and maintaining its natural hydrological, biological, visual and cultural functions and values.

W. "Wetland edge" means the line around a wetland where the prevalence hydrophytes, or wetland plants, ceases. For the purposes of defining the wetland edge, the prevalence of hydrophytes ceases at the point where the combined percent of hydrophytes in the overstory, understory and ground cover falls below fifty percent (50%).

X. "Wetlands" means lands where saturation with water is the dominant factor determining the nature of soil development and the types of plant and animal communities living in the soil and on its surface. The single feature that most wetlands share is soil or substrate that is at least periodically saturated with or covered by water. The water creates severe problems for all plants and animals except those that are adapted for life in water or in saturated soil. (Classification of Wetlands and Deep Water Habitats of the United States, 1979) (NOTE: Not the same as the Shoreline Management Act definition).

2—PERCIVAL CREEK CORRIDOR

Canyon Reach—Olympia Management Unit:

A. Scope/Boundary. The Canyon Reach—Olympia Management Unit has been split into two sub-units based upon the differing physical and jurisdictional boundaries. All lands identified below shall be governed by the provisions of the Shoreline Master Program and Act, except for those lands in "2" below shall be governed by the provisions of the local zoning ordinance. Lands within this Management Unit are as follows:

1. Those lands within the jurisdiction of the Shoreline Management Act (two hundred (200) feet from the creek).

2. Those remaining lands within the canyon and including those lands from the shoreline jurisdiction to one hundred (100) feet beyond the top of the canyon.

B. Policies. These policies shall only apply to those areas described above:

1. Uses should be severely limited to those which protect, conserve and manage existing natural resources and valuable cultural areas. Uses should be nonconsumptive of the physical and biological resources or substantially nondegrading of the unique or valuable natural shoreline characteristic. There should be little or no intrusive visual evidence of man developed structures within the canyon and it should remain relatively free of human influence.

2. Existing structures and uses should conform to the provisions of this management unit to the greatest extent possible.

3. Development should be prohibited within the Percival Creek Canyon except for road crossings and utility corridors where no reasonable alternative exists.

4. The Percival Creek Canyon should be managed as an ecologically sensitive area.

5. Uses or activities which can be identified as detrimental to the water quality of Percival Creek or which would require a Federal or State pollution discharge permit other than for stormwater conveyance or aquaculture purposes should be prohibited.

6. Where conflicts arise between economic development and the protection, conservation and management of existing natural resources, the latter should be given priority.

7. Agricultural practices, including use of chemicals and animal keeping, should be conducted in a manner which protects water quality.

8. Public access and recreational opportunities should be explored within the canyon, but limited to the degree compatible with the conservation or restoration of the canyon ecosystem. These opportunities should be discussed by the local parks departments, affected state agencies, and adjacent property owners.

9. A shoreline pedestrian trail within the canyon is authorized providing (in order of priority):

a. The Burlington Northern Railroad (BNRR) rights-of-way is abandoned and is made available to the City; or

b. An access easement can be obtained from BNRR for a trail located adjacent to the tracks and within the rights-of-way; or

c. Another acceptable trail route can be identified which is compatible with the canyon ecosystem.

C. Use Regulations:

1. Allowable uses and activities within the canyon* are as follows:

*NOTE: Developments within the Canyon or Middle Reach but outside the shoreline jurisdiction will be governed by Chapter 18.76 of this code.

a. Primary Uses:

- 1) Aquaculture. Aquacultural activities relating to the fishing and harvesting of wild and planted stock for recreational and commercial purposes.
- 2) Recreation. Low intensity and passive recreational facilities (viewpoints, unpaved trails, limited picnic facilities) including publicly or privately owned passive parks, wildlife refuges, or open spaces.
- 3) Research and Education. Temporary, water dependent and water oriented research and educational facilities.
- 4) Road and Railroad Design and Construction:
 - a) Road. The continued use and maintenance of existing bridges is allowed. The future expansion of both SR 101 bridges from two to four lanes westbound and three lanes eastbound and the construction of the five lane West Olympia Bridge are allowed. A road for motorized vehicles within the canyon is prohibited.
 - b) Railroads. The continued use and maintenance of the existing Burlington Northern Railroad line and the construction of new facilities outside the canyon is allowed.
 - c) Pedestrian Facilities. The maintenance and use of pedestrian bridges and trails is allowed.
- 5) Utilities. The continued maintenance of existing facilities is allowed. Specific uses include stormwater retention/detention ponds and conveyance facilities, sanitary sewer, water, gas, electricity, telephone, telecable, and other similar utilities.

Where creek crossing is determined to be necessary, utilities shall be attached to or located immediately adjacent to one of these facilities: Evergreen Park pedestrian bridge, West Olympia bridge or SR 101 bridge.

Future utility improvements shall be underground, where feasible, and within or immediately adjacent to existing utility easements. Stormwater discharges to the creek shall utilize existing discharge Points to the extent feasible.

b. Accessory Uses. The following uses are allowed only when shown to be clearly subordinate or incidental to the primary use; is the minimal area necessary to accomplish the proposed use; is in conformance with all appropriate local, state, and federal regulations; and is consistent with the following performance criteria:

1) Dredging. When allowed, this activity shall:

a) Include provisions for fisheries or wildlife habitat improvement.

b) Be subject to the required plans, review and conditions of "Special Plans" Section E.

2) Forest Management Practices. When allowed, this activity shall be of limited scope such as selective tree harvesting for the preservation of view corridors or for trees affected by fire, disease or insects.

3) Landfilling. When allowed, this activity shall:

a) Be subject to the required plans, review, and conditions of "Special Plans" Section E.

b) Return of the excavated portion of Olympic Park Replat proposed Division 2, North of Tract A in Division 1, to as close to its original contours as possible, be allowed, provided a landscaping plan is included for the filled area.

4) Shoreline Protection. When allowed, this activity shall provide for bank protection devices or in-stream construction for the purpose of fisheries or wildlife enhancement.

c. Nonconforming Uses. A use lawfully existing prior to the effective Program for the Thurston Region," or any amendment thereto which is rendered nonconforming by the adoption of these regulations or an amendment thereof, may continue in a manner and to the extent that it existed upon the effective date of the Management Unit or amendment respectively.

2. Permitted uses outside of the Percival Creek canyon, but within 100 feet of the top of the bank are as follows:

a. Primary uses and their customary accessory uses permitted by the underlying zoning district (subject to "b" below).

b. Uses or activities which can be identified as detrimental to the water quality of Percival Creek or which would require a federal or state pollution discharge permit other than for stormwater conveyance or aquaculture purposes are prohibited.

D. Dimensional Standards. Other than those standards below, dimensional standards within this unit shall be pursuant to the underlying zoning.

However, any rights created or granted within existing Planned Unit Development approvals or in the Memorandum of Settlement of Civil Action, Thurston County Superior Court Case No. 84-2-01074 and SHB No. 84-38, Between the Black Hills Audubon Society, the City of Olympia and Plaintiffs Falcone, et al., and Evergreen Park, Inc. shall not be affected by this section. Provided, if a geotechnical report required for a particular parcel under this ordinance indicates that the minimum setback provisions in the settlement agreement pose a hazard to persons, property or the environment when applied to said lot, the administrator may require minimum buffers as provided in subsection 1 below.

1. Canyon Buffer.* The minimum buffer from the top of the canyon shall be twenty-five (25) feet except when the property is less than one hundred (100) feet in depth from the canyon to a frontage road. In this case, the administrator may authorize a reduction in this buffer of no more than fifty percent (50%), provided the structure would be visually obstructed from the railroad right-of-way, and is accomplished by a site plan which has incorporated into it the recommendations of a geotechnical report.

2. Density.* The areas within the canyon shall be subtracted from the gross parcel size for the purpose of density calculation.

E. Special Plans. Developments lying within the shoreline jurisdiction or within the canyon* will be required to submit these special plans or studies and undergo the special review as follows:

*NOTE: Developments within the Canyon or Middle Reach but outside the shoreline jurisdiction will be governed by Chapter 18.76 of this code.

1. Environmental Checklist. No categorical exemptions shall exist within the canyon. All developments requiring a local permit shall prepare an Environmental Checklist.

2. Supplemental Review. Copies of all Environmental Checklists and their attachments, plans and reports shall be circulated to the Squaxin Island Tribe, and appropriate state and federal agencies for review. Development proposals shall incorporate applicable recommendations from these agencies for preventing and mitigating adverse impacts on fish or wildlife resources and enhancing wildlife habitat.

3. Water Quality Assessment. A detailed assessment of the water quality impacts and proposed mitigation measures will be a required part of the Environmental Checklist.

4. Geotechnical Report.

a. This report shall include a description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations of the adequacy of the site to be developed. This report shall be prepared by either a licensed civil engineer or an engineering geologist who is knowledgeable of regional geologic conditions and who derives his/her livelihood from employment in this field.

b. Any area in which the investigation indicates the presence of geological hazards shall not be developed unless the report can conclusively demonstrate that these hazards would be overcome in such a manner as to prevent hazard to life or limb, hazard to property, adverse effects on the safety, use or integrity of the canyon ecology, and adverse impact on the natural environment. The burden of proof lies with the proponent.

c. The requirement of this report may be waived by the administrator if the proposed development would not cause significantly adverse geological impacts, or there is adequate geological information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigation measures.

5. Clearing and Grading Plan. This plan shall specifically identify vegetation to be removed, a schedule for vegetation removal and replanting, and the method of vegetation removal. Clearing and grading activities shall be undertaken only during the drier months of the year and shall be in accordance with all local ordinances. Undergrowth shall be retained to the extent feasible. Yarding methods which minimize soil disturbance shall be used.

6. Temporary Erosion Control Plan. This plan shall identify the specific mitigating measures to be implemented during construction to protect the water from erosion, siltation, landslides and deleterious construction materials.

7. Stormwater Control Plan. Except for individually owned duplex and single family residences not within a "project," a permanent stormwater control plan shall take into consideration existing and projected development in surrounding areas and identify the means of protecting water quality.

a. Stormwater Maintenance Agreement. A maintenance program for the storm drainage system, which identifies maintenance activities, schedules, and responsibilities shall be part of the stormwater control plan.

b. Stormwater Plan Review. Authorization of all stormwater systems shall be by the local jurisdiction with review by the appropriate state and federal agencies and the Squaxin Island Tribe.

F. Permit Process.

1. "Substantial development" located within the shoreline jurisdiction and not expressly exempted by the State Shoreline Management Act and WAC 173-14-040 ¹³ will require a Substantial Development Permit.

2. Uses and activities exempted by the State Shoreline Management Act and WAC 173-14-040 ¹³ shall still comply with the policies and regulations of this Management Unit.

3. When a Substantial Development Permit is required, the Administrator shall undertake a consolidated review of the project by the affected parties identified in Section E and seek to minimize the time in the permit process through close coordination with the applicant.

3—PERCIVAL CREEK CORRIDOR

Middle Reach Management Unit:

A. Scope/Boundary. The Middle Reach Management Unit has been split into three sub-units based upon differing physical and jurisdictional boundaries. All lands identified below are governed by the provisions of the Shoreline Master Program and Act, except for the wetland buffer which shall be governed by the provisions of the local zoning ordinance. Lands within this Management Unit are as follows:

1. Black Lake Drainage Way and its adjacent fifty (50) foot buffer area.

2. Associated Wetlands of Black Lake and its adjacent fifty (50) foot buffer area.

3. Those lands extending from the outside edge of the Black Lake drainage way buffer to the two hundred (200) foot shoreline boundary or the edge of the 100-year flood plain whichever is greater.

B. Policies. These policies shall only apply to those areas described above.

1. Uses and activities should protect the shoreline from urban expansion by encouraging "planned" development concepts which accommodate innovation, creativity and design flexibility. Such "planned" developments would be characterized by lower intensity uses and activities along the shoreline and associated wetland which would provide a buffer and create environmental protection from competing upland activities.

2. Existing structures and uses should conform to the provisions of this management unit to the greatest extent possible.

3. Development should be prohibited within the drainage way and its buffer except for road and utility crossings where no reasonable alternative exists.

4. Uses or activities which can be identified as detrimental to the waters of Black Lake Drainage Ditch or which would require a federal or state pollution discharge permit other than for stormwater conveyance or aquaculture purposes should be prohibited.

5. Where conflicts arise between economic development and the protection, conservation and management of existing natural resources, the latter should be given priority.

6. Agricultural practices, including use of chemicals and animal keeping, should be conducted in a manner which protects water quality.

7. Recreational opportunities should be explored within the publicly owned Black Lake Drainage Ditch and private property within the drainage way buffer where access easements can be obtained to the degree compatible with the conservation or restoration of the drainage ditch ecosystem. These opportunities should be discussed by the local parks departments, affected state agencies, and adjacent property owners.

8. Projects to maintain the drainage ditch should incorporate features which enhance the habitat value of the ditch and associated wetland.

9. Preclude filling of the associated wetlands except for road and utility crossings where no reasonable alternative exists.

10. Developments are encouraged to arrange their site design to:

a. Cluster required open space areas, small courtyards, plazas, or other pedestrian-oriented amenities within or adjacent to the shoreline setback,

b. Orient office spaces of industrial development adjacent to the creek, and

c. Use of wooden exterior, where possible, and/or paint of an earth tone of blue, brown, gray or green as a preferred architectural treatment.

11. Unsightly or inappropriate shoreline activities should not be located along the drainage ditch side of a parcel unless visually obscured from the water's edge by a combination of topography, dense plantings, earth berming, or a screening fence.

C. Use Regulations:

1. Allowable uses and activities within the Black Lake Drainage Way, its buffer, the associated wetlands of Black Lake, and its buffer* are as follows:

*NOTE: Developments within the Canyon or Middle Reach but outside the shoreline jurisdiction will be governed by Chapter 18.76 of this code.

a. Primary Uses:

1) Aquaculture. Aquacultural activities relating to the fishing and harvesting of wild and planted stock for recreational and commercial purposes.

2) Recreation. Low intensity and passive recreational facilities (viewpoints, unpaved trails, limited picnic facilities) including publicly or privately owned passive parks, wildlife refuges, or open spaces.

3) Research and Education. Temporary, water dependent and water oriented research and educational facilities.

4) Road and Railroad Design and Construction:

a) Road. The continued use and maintenance of existing facilities is allowed. There shall be a preference for future improvements to be clustered immediately adjacent to the existing Mottman Road crossing in lieu of a new corridor crossing.

Future transportation corridors which cross the wetlands will be improved to minimum road standards of at least a collector roadway, a sixty (60) foot rights-of-way, a public railroad crossing and eventual signalization at Black Lake Boulevard. Future transportation corridor crossings will only be allowed in the following prioritized locations:

i) Mottman Road—at grade

ii) 25th Avenue—elevated structure across the wetland.

(NOTE: The elevated structure is the preferred alternative at 25th Avenue without providing additional roadway design alternative(s) and an environmental assessment of the potential impacts of the alternative design(s) upon the wetland and its habitat values.)

b) Railroads. The continued use and maintenance of the existing Burlington Northern Railroad line and the construction of new facilities outside the shoreline setback is allowed.

c) Pedestrian Facilities. The maintenance and use of trails are allowed.

5) Utilities. The continued maintenance of existing facilities is allowed. The continued maintenance of the Black Lake Drainage Ditch is also allowed provided that such an activity includes features which increase the habitat value of the ditch and adjacent wetlands. Specific uses include stormwater retention/ detention ponds and conveyance facilities, sanitary sewer, water, gas, electricity, telephone, telecable, and other similar utilities. Stormwater discharges to the creek shall utilize existing discharge points to the extent feasible.

Where the creek crossings are determined to be necessary, they shall be located within the Mottman Road rights-of-way crossing, or in the 25th Avenue (extended) corridor, or in areas specifically identified in utility comprehensive plans or drainage basin plans adopted by a local government, provided, that such plans shall be subject to review as "Special Plans" as set forth at Section E of this subsection.

Future utility improvements which cross the drainage ditch and/or associated wetlands shall be allowed only within the corridors described below, or in areas specifically identified in utility comprehensive or drainage basin plans adopted by a local government, provided, that such plans shall be subject to review as "Special Plans" as set forth at Section E of this subsection. Utility improvements may precede the roadway improvements with these corridors and where the utilities span the drainage ditch or former channel an aerial crossing shall be used. The prioritized utility corridors are as follows:

a) Mottman Road

b) 25th Avenue in conjunction with the elevated structure or immediately adjacent to the existing utility easements.

b. Accessory Uses. The following uses are allowed only when shown to be clearly subordinate or incidental to the primary use; is the minimal area necessary to accomplish the proposed use; is in conformance with all appropriate local, state and federal regulations; and is consistent with the following performance criteria:

1) Dredging. When allowed, this activity shall:

a) Be a part of an approved fisheries or wildlife habitat improvement project.

b) Be subject to the required plans, review and conditions of the "Special Plans" Section E.

2) Forest Management Practices. When allowed, this activity shall be of limited scope such as selective tree harvesting for the preservation of view corridors or for trees affected by fire, disease or insects.

3) Landfilling. When allowed, this activity shall be subject to the required plans, review and conditions of the "Special Plans" Section E.

4) Shoreline Protection. When allowed, this activity shall provide for bank protection devices or in stream construction for the purpose of fisheries or wildlife enhancement.

c. Nonconforming Uses. A use lawfully existing prior to the effective date of this Upper Reach Management Unit, the "Shoreline Master Program for the Thurston Region," or any amendment thereto which is rendered nonconforming by the adoption of these regulations or an amendment thereof, may continue in a manner and to the extent that it existed upon the effective date of the Management Unit or amendment respectively.

2. Allowable uses and activities not located in the preceding areas to the boundary of the shoreline jurisdiction are as follows:

a. Primary uses and their customary accessory uses (subject to "b" below):

1) Sales

2) Service

3) Storage

4) Manufacturing

5) Residential

6) Parks, open space and recreation facilities

7) Uses of a similar nature as determined by the local administrator.

b. Uses or activities which can be identified as detrimental to the water quality of the Black Lake Drainage Ditch and the Associated Wetlands of Black Lake, or which would require a federal or state pollution discharge permit other than for stormwater conveyance or aquaculture purposes are prohibited.

D. Dimensional Standards. Other than those standards below, dimensional standards within this unit shall be pursuant to the underlying zoning.

1. Drainage Way Buffer. For properties abutting the publicly owned Black Lake Drainage Way, a fifty (50) foot undisturbed native vegetative buffer shall be retained.

a. The administrator may require a vegetation enhancement plan for those locations within the buffer where substantial native vegetation is lacking.

b. All vegetation enhancement plans for the publicly owned Black Lake Drainage Way buffer shall be designed to increase wildlife or aquatic habitat by including riparian species similar to those listed in "Suggestions for Stream Bank Revegetation in Western Washington."

c. When an adjacent property owner desires to landscape the abutting publicly owned drainage way, the vegetation enhancement plan shall be reviewed and approved by the Thurston County Public Works Department.

d. The standards of subsection 2 below supersede the provisions of this section.

e. The administrator may reduce the drainage way buffer when the existing lot of record is less than one hundred (100) feet in depth. In this case, the buffer shall not be greater than fifty percent (50%) of the parcel depth but in no case reduced beyond twenty five (25) feet.

f. Properties which contain material storage yards, truck service roads, railroad lines, equipment or vehicle parking or similar activities shall be screened from the drainage ditch. A sight screening will be located in a ten (10) foot strip immediately upland of the drainage ditch buffer by providing a combination of view obstructing vegetation, earth berm, wall or fencing.

2. Wetland Buffer.* For properties abutting the associated wetlands of Black Lake, a fifty (50) foot undisturbed native vegetation buffer shall be retained.

*NOTE: Developments within the Canyon or Middle Reach but outside the shoreline jurisdiction will be governed by Chapter 18.76 of this code.

a. Land uses and activities which encroach into the required buffer area on the effective date of the implementing ordinance shall retain the existing buffer with no further clearing or habitat destruction.

b. Vegetation enhancement plans shall be designed to increase wildlife or aquatic habitat by including riparian species similar to those listed in "Suggestions for Stream Bank Revegetation in Western Washington."

c. A vegetation enhancement plan and a wetland assessment shall be prepared for the associated wetland and/or its buffer, and reviewed by the appropriate state and federal agencies.

d. The standards of this section supersede the provisions of subsection 1 above.

3. Density. That portion of a parcel containing a wetland shall be subtracted from the gross parcel size to determine residential density. Where the entire parcel lies within a wetland, one dwelling unit per lot of record may be transferred to an adjacent upland parcel.

4. Building Height. Thirty five (35) feet within shoreline jurisdiction.

E. Special Plans. Substantial developments within the shoreline jurisdiction will be required to submit these special plans or studies and undergo the special review as follows:

1. Environmental Checklist. No categorical exemptions shall exist within the shoreline setback. All developments requiring a local permit shall prepare an Environmental Checklist.

2. Clearing and Grading Plan. This plan shall specifically identify vegetation to be removed, a schedule for vegetation removal and replanting, and the method of vegetation removal. Clearing and grading activities shall be undertaken only during the drier months of the year and shall be in accordance with all local ordinances. Undergrowth shall be retained to the extent feasible. Yarding methods which minimize soil disturbance shall be used.

3. Temporary Erosion Control Plan. This plan shall identify the specific mitigating measures to be implemented during construction to protect the water from erosion, siltation, landslides and deleterious construction materials.

4. Stormwater Control Plan. Except for individually owned duplex and single family residences not within a "project," a permanent stormwater control plan shall take into consideration existing and projected development in surrounding areas and identify the means of protecting water quality.

a. Stormwater Maintenance Agreement. A maintenance program for the storm drainage system, which identifies maintenance activities, schedules, and responsibilities shall be part of the stormwater control plan.

b. Stormwater Plan Review. Authorization of all stormwater systems shall be by the local jurisdiction with review by the appropriate State and Federal agencies and the Squaxin Island Tribe.

Substantial developments also lying within the drainage way buffer shall also submit the following:

5. Supplemental Review. Copies of all Environmental Checklists and their attached plans or reports shall be circulated to the Squaxin Island Tribe and appropriate State and Federal agencies for review. Development proposals shall incorporate applicable recommendations from these agencies for preventing and mitigating adverse impacts on fish or wildlife resources and enhancing wildlife habitat.

6. Water Quality Assessment. A detailed assessment of the water quality impacts and proposed mitigation measures will be a required part of the Environmental Checklist.

7. Geotechnical Report.

a. This report shall include a description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations of the adequacy of the site to be developed. This report shall be prepared by either a licensed civil engineer or an engineering geologist who is knowledgeable of regional geologic conditions and who derives his/her livelihood from employment in this field.

b. Any area in which the investigation indicates the presence of geological hazards shall not be developed unless the report can conclusively demonstrate that these hazards would be overcome in such a manner as to prevent hazard to life or limb, hazard to property, adverse effects on the safety,

use or integrity of the canyon ecology, and adverse impact on the natural environment. The burden of proof lies with the proponent.

c. The requirement of this report may be waived by the administrator if the proposed development would not cause significantly adverse geological impacts, or there is adequate geological information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigation measures.

Substantial developments proposed within the associated wetlands of Black Lake or its buffer* shall also submit the following:

*NOTE: Developments within the Canyon or Middle Reach but outside the shoreline jurisdiction will be governed by Chapter 18.76 of this code.

8. Vegetation Enhancement Plan. This report shall contain a list of deliberate and controlled alterations to the vegetation which may be allowed and which are intended to result in a net increase in wildlife or aquatic habitat value.

9. Wetland Assessment:

a. This study shall determine the edge of the wetland and contain details on habitat value, hydrology, vegetation type, and/or water quality studies. It shall also include specific recommendations for mitigating measures which could be required as a condition of project approval. The recommendations may include, but are not limited to, construction techniques, or design, drainage, density specifications, and buffers. This analysis shall be prepared by persons who are educated in their respective field of expertise and derive his/her livelihood from employment as a consultant in that specialized field.

b. The Administrator may waive the requirement for said report if the proposed development would not cause significantly adverse biological and hydrological impacts, or there is adequate information available on the area proposed for development to determine the impacts of the proposed development and appropriate mitigating measures.

F. Permit Process:

1. "Substantial development" located within the shoreline jurisdiction and not expressly exempted by WAC 173-14-040 ^(b) will require a Substantial Development Permit.

2. Uses and activities exempted by the State Shoreline Management Act and WAC 173-14-040 ^(b) shall still comply with the policies and regulations of this management unit.

3. When a Substantial Development Permit is required, the Administrator shall undertake a consolidated review of the project by the affected parties identified in Section E and seek to minimize the time in the permit process through close coordination with the applicant.

14.08.020 Supersession

Pursuant to the authority of the Shoreline Master Program for the Thurston Region and RCW Chapter ~~90.58~~, the Shoreline Management Act, this title constitutes a local ordinance and supersedes the parts 5, 6, 7, 8, 9, 10, 11, 13 and 15 of Section VII, "Definitions and Administration." The provisions of the master program and this title are supplementary to the provisions of RCW Chapter ~~90.58~~ and Title ~~173~~ WAC.

~~14.08.030 Shoreline substantial development, conditional use and variance permits~~

A. — Applications for shoreline substantial development permits, conditional use permits, and variance permits are subject to and shall be processed pursuant to WAC Chapter ~~173-27~~, as now or hereafter amended, and, as provided below:

B. — Applications for shoreline substantial development, conditional use, and variance permits shall be submitted to the planning department on forms supplied by the department. The application shall contain the information required by WAC ~~173-27-180~~ and such other information as may be required by the department. The applicant shall pay to the department the application fee prescribed by the approved fee schedule. In addition to the application fee, the applicant shall pay fees for environmental analysis, and for other necessary actions or approvals.

C. — Applications for those shoreline development permits that are exempt from the State Environmental Policy Act and entirely upland of the ordinary high water mark may be decided by the Director if a public hearing is not requested by an interested party. The Hearing Examiner shall hold a public hearing and render a decision regarding other applications identified in subsection A of this section.

D. — Pursuant to WAC ~~173-27-110~~, notice of the application and hearing shall be published in the manner prescribed therein, and mailed to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the subject property, fifteen (15) days before the hearing. In addition, the planning department, in its discretion, may give notice in any other manner deemed appropriate.

E. — The decision of the Hearing Examiner may be appealed to the Shorelines Hearings Board pursuant to WAC ~~173-27-220~~.

F. — Pursuant to WAC ~~173-27-090~~ and ~~173-27-100~~, the director or the director's designee shall review and decide requests for time extensions and permit revisions. The decision of the director may be appealed pursuant to city ordinance.

~~14.08.040 Amendments~~

A. — Amendments to the Shoreline Master Program, including changes in mapped environmental designations, shall be processed pursuant to chapter ~~173-19~~ WAC as now or hereafter amended, and as provided below.

B.— Applications for proposed amendments shall be submitted to the planning department on forms supplied by the department. The applicant shall pay to the department the application fee and fees for environmental analysis pursuant to RCW ~~43.21C~~ ¹⁷ (SEPA), and for other necessary actions or approvals.

C.— The city council shall hold the public hearing prescribed by WAC ~~173-19-062~~ ¹⁷ (1). At any time, the council may refer a proposed amendment to the planning commission for a recommendation. If the planning commission elects to hold a public hearing, a notice of the hearing shall be given in the same manner as the hearing held by the board.

D.— If the proposed amendment is a map change of environmental designation, regardless of the size or number of parcels affected, or regardless of whether the applicant is a private person or governmental agency, notice of the proposed amendment shall be mailed to all the owners of the property which is proposed for redesignation, as shown by the records of the county assessor. In addition, notice shall be mailed to all the owners of property which lies within three hundred feet of the boundary of the property proposed for designation. Notices given pursuant to this subsection shall be mailed at least ten calendar days before the date of the hearing. The applicant shall furnish to the planning department the names and addresses of property owners who are to receive notice.

14.08.050 Appeals of administrative decisions

A.— Any aggrieved person may appeal an administrative decision made pursuant to the master program by filing a written appeal with the planning department within ten days from the date of decision. The appeal shall be filed on forms prescribed by the department and the appellant shall pay to the department the appeal fee prescribed by the approved fee schedule.

B.— Appeals of administrative decisions shall be decided by the hearings examiner, after public hearing, and shall be subject to the provisions of Ordinance No. 4148. Notice of the hearing shall be mailed to the appellant and may be mailed to any other person who the planning department believes may be affected by or interested in the appeal. Notice shall be mailed not later than ten days before the hearing.

(Ord. 4373 §2(part), 1982; Ord. 1307 §2(part), 1981).

14.08.060 Fees

For purposes of this chapter, the fee schedule in Section 4.40.010 of the Olympia Municipal Code is considered the "approved fee schedule."

Section 4. New OMC Chapter 18.20. The Olympia Municipal Code shall be and is hereby amended by the addition of a NEW CHAPTER 18.20 entitled "Shoreline Master Program Regulations" to include the text, tables, and maps, including OMC Sections 18.20.100 through 18.20.920, set forth in Exhibit B, which is hereby incorporated by reference as though fully set forth herein.

Section 5. Amendment OMC 18.32.515. Olympia Municipal Code Section 18.32.515, Wetlands and Small Lakes – Small Wetlands, is hereby amended to read as follows for consistency with OMC New Chapter 18.20:

18.32.515 Wetlands and Small Lakes - Small Wetlands

A. Wetlands and "small lakes" less than one thousand (1,000) square feet shall be exempt from the requirements of OMC 18.32.135.A, wetland buffers in OMC 18.32.535, compensation projects in OMC 18.32.545, and replacement ratios in OMC 18.32.550, provided that the wetland or pond:

1. Is not associated with a riparian corridor,
2. Is not part of a wetland mosaic, and
3. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife, and
4. No part of the wetland is within shorelines of the State of Washington, except as authorized by OMC 18.20.420(C)(3).

B. Wetlands and "small lakes" between one thousand (1,000) and four thousand (4,000) square feet shall be exempt from the requirements of OMC 18.32.135.A, provided that the wetland or small lake:

1. Is rated as a Category III or IV wetland,
2. Is not associated with a riparian corridor,
3. Is not part of a wetland mosaic,
4. Does not score 20 points or greater for habitat in the Washington State Wetland Rating System for Western Washington (2004),
5. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife, and
6. A wetland mitigation report is provided as required by OMC 18.32.590, and
7. No part of the wetland is within shorelines of the State of Washington.

Section 6. Amendment of OMC 18.73. The following NEW SECTION 18.73.020, Shoreline Management Act Penalties and Enforcement, is hereby added to Olympia Municipal Code Chapter 18.73 to aid in and support administration of OMC NEW CHAPTER 18.20:

Chapter 18.73 CIVIL AND CRIMINAL PENALTY

18.73.000 Chapter Contents

Sections:

18.73.010 Violations -- Misdemeanor -- Gross Misdemeanor -- Civil Infraction.

18.73.020 Shoreline Management Act Penalties and Enforcement.

18.73.010 Violations -- Misdemeanor -- Gross Misdemeanor -- Civil Infraction.

A. Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of this title shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty-five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

B. As an additional concurrent penalty, it shall be a civil infraction for a person, firm, or corporation to violate or fail to comply with any term or provision of this title. Each day shall be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as follows:

1. First offense: Class 3 (\$50), not including statutory assessments.
2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.
3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.

See also OMC Chapter 4.44, Uniform Code Enforcement.

18.73.020 Shoreline Management Act Penalties and Enforcement

A. The Shoreline Management Act imposes significant penalties for violation of the Act, regulations and master programs. A violation constitutes a gross misdemeanor, which is punishable by fine or imprisonment (RCW 90.58.220). In addition to the criminal penalty, the Act imposes liability on any person violating the Act or conditions of a permit for all damage to public or private property arising from the violation. Furthermore, the violator may have to restore an area affected by a violation, and pay the entire cost of restoration, including attorney's fees and court costs (RCW 90.58.230).

B. Enforcement action may be taken by the City or Department of Ecology whenever a person has violated any provision of the Shoreline Management Act or Olympia's Shoreline Master Program or other regulation promulgated under the Act. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the person subject to the enforcement action.

Section 7. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 8. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 9. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Darren Nienobe

DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

EXHIBIT A

SECTION 12

Goals and Policies

12.1 Shoreline Master Program Goals and Policies

The goals, policies and regulations of Olympia's Shoreline Master Program are based on the governing principles in the Shoreline Master Program Guidelines, WAC 173-26-186 and the policy statement of RCW 90.58.020. It is the policy of the City to provide for the management of the shorelines of Olympia by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

- A. The interest of all of the people shall be paramount in the management of those areas of Puget Sound lying seaward from the line of extreme low tide. Within this area the City will give preference to uses in the following order of preference which:
 1. Recognize and protect the state-wide interest over local interest;
 2. Preserve the natural character of the shoreline;
 3. Result in long-term over short-term benefit;
 4. Protect the resources and ecology of the shoreline;
 5. Increase public access to publicly-owned areas of the shorelines;
 6. Increase recreational opportunities for the public in the shoreline;
 7. Provide for any other element as defined in RCW 90.58.100 as deemed appropriate or necessary.
- B. The policies of Olympia's Shoreline Program may be achieved by diverse means, one of which is regulation. Other means may include but are not limited to acquisition of lands and/or easements by purchase or gift, incentive programs, and implementation of capital facility and/or non-structural programs.
- C. Regulation of private property to implement Shoreline Program goals such as public access and protection of ecological functions and processes must be consistent with all relevant constitutional and other legal limitations.
- D. Regulatory or administrative actions must be implemented consistent with the Public Trust Doctrine and other applicable legal principles as appropriate and must not unconstitutionally infringe on private property rights or result in an unconstitutional taking of private property.
- E. The regulatory provisions of this Shoreline Program are to be limited to shorelines of the State, whereas the planning functions of the Program may extend beyond the designated shoreline boundaries.

The policies and regulations established by this Shoreline Program are to be integrated and coordinated with the other goals, policies and rules of the Olympia Comprehensive Plan and development regulations adopted under the Growth Management Act (GMA).

- F. The policies and regulations of Olympia's Shoreline Program are intended to protect shoreline ecological functions by:
1. Requiring that current and potential ecological functions be identified and understood when evaluating new or expanded uses and developments;
 2. Requiring adverse impacts to be mitigated in a manner that ensures no net loss of shoreline ecological functions. Mitigation shall include avoidance as a first priority, followed by minimizing, and then replacing/compensating for lost functions and/or resources;
 3. Ensuring that all uses and developments, including preferred uses and uses that are exempt from a shoreline substantial development permit, will not cause a net loss of shoreline ecological functions;
 4. Preventing, to the greatest extent practicable, cumulative impacts from individual developments;
 5. Fairly allocating the burden of preventing cumulative impacts among development opportunities; and
 6. Including incentives to restore shoreline ecological functions where such functions have been degraded by past actions.

12.2 Shoreline Ecological Protection and Mitigation Goals

- A. The Shoreline Management Act and the Shoreline Master Program Guidelines place a primary emphasis on the protection of shoreline ecological functions and system-wide processes. In accordance with the Guidelines (WAC 173-26), Olympia's Shoreline Program must insure that shoreline uses, activities, and modifications will result in no net loss to these processes and functions.
- B. The protection, restoration and enhancement of shoreline ecological functions and system-wide processes, especially as they pertain to the long-term health of Budd Inlet, are high priorities of Olympia's Shoreline Program. The policies and regulations established therein are to be applied to all uses, developments and activities that may occur within the shoreline jurisdiction.
- C. The City recognizes that there are many existing sources of untreated stormwater within the shoreline jurisdiction and that these sources of nonpoint pollution have negative impacts on shoreline ecological functions. The City's Drainage Design and Erosion Control Manual of Olympia is the primary regulatory tool that addresses stormwater treatment and is periodically updated in response to changing guidelines from the Department of Ecology and changes in best management practices.

12.3 Shoreline Ecological Protection and Mitigation Policies

- A. All shoreline use and development should be carried out in a manner that avoids and minimizes adverse impacts so that the resulting ecological condition does not become worse than the current condition. This means assuring no net loss of ecological functions and processes and protecting critical areas that are located within the shoreline jurisdiction.

- B. Natural features of the shoreline and nearshore environments that provide ecological functions and should be protected include but are not limited to marine and freshwater riparian habitat, banks and bluffs, beaches and backshore, critical saltwater and freshwater habitat, and wetlands and streams. Shoreline processes that should be protected include but are not limited to erosion and accretion, sediment delivery, transport and storage, organic matter input, and large woody debris recruitment. See WAC 173-26-201(2)(c).
- C. Preserve and protect important habitat including but not limited to the Port Lagoon, Priest Point Park, Ellis Cove, Grass Lake, Chambers Lake, and Percival Canyon.
- D. Development standards for density, setbacks, impervious surface, shoreline stabilization, vegetation conservation, critical areas, and water quality should protect existing shoreline functions and processes. During permit review, the Administrator should consider the expected impacts associated with proposed shoreline development when assessing compliance with this policy.
- E. Where a proposed use or development creates significant adverse impacts not otherwise avoided or mitigated by compliance with Olympia's Shoreline Program, mitigation measures should be required to ensure no net loss of shoreline ecological functions and system-wide processes.
- F. The City should work with other local, state, and federal regulatory agencies, tribes, and non-government organizations to ensure that mitigation actions carried out in support of the Olympia Shoreline Program are likely to be successful and achieve beneficial ecological outcomes. This includes such measures as mitigation banks, fee in lieu programs, and assisting applicants/proponents in planning, designing, and implementing mitigation.
- G. The City should develop a program to periodically review conditions on the shoreline and conduct appropriate analysis to determine whether or not other actions are necessary to protect and restore shoreline ecology to ensure no net loss of ecological functions.
- H. Allow offsite mitigation when doing so would serve to better accomplish the goals and objectives of the Shoreline Management Act to protect and preserve ecological functions, or provide public access, or promote preferred shoreline uses, provide for appropriate development incentives and/or alternative mitigation options.
- I. The City should encourage innovative mitigation strategies to provide for comprehensive and coordinated approaches to mitigating cumulative impacts and restoration rather than piecemeal mitigation.
- J. When available and when appropriate to the situation, the City should allow for offsite mitigation approaches, including Advance Mitigation, Fee-In Lieu, and Mitigation Banking.
- K. As part of the next update of the Drainage Design and Erosion Control Manual of Olympia, the City will consider methods and measures to encourage existing development, redevelopment and new development within the shoreline jurisdiction to comply with the City's Drainage Design and Erosion Control Manual of Olympia and best management practices.

12.4 Shoreline Use and Development Policies

- A. The City should give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the State's shoreline areas.

- B. The City should ensure that all proposed shoreline development will not diminish the public's health, safety, and welfare, as well as the land or its vegetation and wildlife, and should endeavor to protect property rights while implementing the policies of the Shoreline Management Act.
- C. The City should reduce use conflicts by prohibiting or applying special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the State's shoreline. In implementing this provision, preference should be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.
- D. The City should continue to develop information about the impacts of sea level rise on the shoreline and other affected properties; the City should develop plans to address the impacts of sea level rise in collaboration with impacted property owners, the community and the Department of Ecology. These plans should include at minimum flood prevention approaches, shoreline environment impact considerations and financing approaches. The City should amend the Shoreline Master Program and other policy and regulatory tools in the future as necessary to implement these plans.
- E. The City should consider the impacts of sea level rise as it plans for the rebuild of Percival Landing and other shoreline improvements and it should be designed to provide for a reasonable amount of sea level rise consistent with the best available science and the life cycle of the improvements.
- F. The City should collaborate with private property owners, business owners and citizens in the implementation of the Shoreline Master Program to explore creative ways to reduce ecological impacts when new development or redevelopment is proposed. This objective may best be accomplished by developing flexible approaches to shoreline development where the total environmental benefit is enhanced through such measures. Opportunities for collaboration may include:
 - 1. Provision of advanced stormwater management and treatment within the shoreline.
 - 2. The restoration, repair and replacement of Percival Landing where appropriate.
 - 3. Provision of direct physical access to the water where appropriate.
 - 4. Provision of a shoreline trail where feasible and consistent with applicable laws.
 - 5. Provision of native vegetation preservation and restoration where appropriate.
 - 6. Bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures water-ward of Ordinary High Water Mark (OHWM) where appropriate.
 - 7. Provision of water related recreation, active playgrounds, and significant art installations, performance space, or interpretive features where appropriate.

12.5 Aquatic Environment Management Policies

- A. The *Aquatic* environment designation should apply to lands water-ward of the Ordinary High Water Mark.

- B. Allow new overwater structures only for water-dependent uses, public access, or ecological restoration.
- C. The size of new overwater structures should be the minimum necessary to support the structure's intended use.
- D. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of overwater facilities should be encouraged.
- E. All development and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
- F. Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
- G. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
- H. Space for preferred shoreline uses should be reserved. Such planning should consider upland and in-water uses, water quality, navigation, presence of aquatic vegetation, existing shellfish protection districts and critical wildlife habitats, aesthetics, public access and views.

12.6 Natural Environment Management Policies

- A. The *Natural* environment designation should be assigned to shoreline areas if any of the following characteristics apply:
 1. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
 2. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
 3. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.
- B. Priest Point Park is one of a few shorelines along Budd Inlet that is ecologically intact. Therefore, any use or modification that would substantially degrade the ecological functions or natural character of this shoreline area should not be allowed.
- C. Scientific, historical, cultural, educational research uses, and water-oriented recreation access may be allowed provided that no significant ecological impacts on the area will result. Recreation uses should be limited to trails and viewing areas.
- D. Uses should be highly restricted and allowed only with a conditional use permit for water-oriented recreational uses.
- E. New roads, utility corridors, and parking areas should be located outside of the shoreline jurisdiction.

12.7 Urban Conservancy Environment Management Policies

- A. The *Urban Conservancy* environment designation should be applied to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities and urban growth areas if any of the following characteristics apply:
 - 1. They are suitable for water-related or water-enjoyment uses;
 - 2. They are open space, flood plain or other sensitive areas that should not be more intensively developed;
 - 3. They have potential for ecological restoration;
 - 4. They retain important ecological functions, even though partially developed; or
 - 5. They have potential for development that is compatible with ecological restoration.
- B. Uses that preserve the natural character of the area or promote preservation of open space or critical areas should be the primary allowed use. Uses that result in the restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the *Urban Conservancy* environment and the setting.
- C. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications. These standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade shoreline values.
- D. Public access trails and public passive recreation should be provided whenever feasible and significant ecological impacts can be mitigated.
- E. Water-oriented uses should be given priority over non-water oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
- F. Restoration and protection of shorelands, stream openings and associated wetlands within the *Urban Conservancy* environment should be given high priority.

12.8 Waterfront Recreation Environment Management Policies

- A. The *Waterfront Recreation* environment designation should be assigned to shoreline areas that are or are planned to be used for recreation, or where the most appropriate use is for recreation open space or habitat conservation.
- B. Development standards should take into account existing improvements and character of park areas, allow for development of low-intensity recreational uses, and restoration of shorelines. Low intensity recreation should be non-motorized and not significantly alter the landscape, such as running and walking, bicycling, wildlife viewing, picnicking, nature study, and quiet contemplation and relaxation. Associated facilities might include trails, open fields and lawn areas, picnic shelters, public art, interpretive exhibits and supporting parking and restrooms.
- C. Trails, water access, interpretive sites, viewing platforms and passive recreation areas should be allowed within setbacks and vegetation buffers when significant ecological impacts can be mitigated.
- D. Preferred uses include trails, water-related recreation, active playgrounds, and significant art installations, performance space, interpretive features, open lawn areas, play equipment, shelters, picnic areas, launch ramps, viewing platforms and accessory uses. Special events may take place.

- E. Shoreline restoration should be a priority. All development should ensure no net loss of shoreline ecological functions.

12.9 Marine Recreation Environment Management Policies

- A. The *Marine Recreation* environment designation should be assigned to areas on the Port Peninsula that are used or planned to be used for boating facilities, water-oriented recreation and commercial uses. Preferred uses include:
 - 1. Boating facilities including marinas, launch ramps, boat moorage, maintenance and repair, and upland boat storage; together with offices and other associated facilities;
 - 2. Water-oriented recreation such as trails and viewing areas; water access, water-related recreation, active playgrounds, and significant art installations, performance space, or interpretive features; and
 - 3. Water-oriented commercial uses.
- B. Operation and management of the *Marine Recreation* environment should be directed towards maintaining and enhancing water-oriented services, while ensuring that existing and future activity does not degrade ecological functions.
- C. All development should ensure no net loss of shoreline ecological functions.
- D. Innovative approaches to restoration and mitigation should be encouraged, including incentive and alternative mitigation programs such as Advance Mitigation and Fee In-lieu.
- E. Encourage bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM.
- F. The City recognizes the Port's responsibility to operate its marine facilities and to plan for this area's future use through the development and implementation of its Comprehensive Scheme of Harbor Improvements.
- G. The City recognizes that the Marine Recreation shoreline (Reach 5C) and the adjoining Urban Conservancy/Urban Intensity shoreline in Reach 6A provide a variety of benefits to the community including boat moorage, utility transmission, transportation, public access, water enjoyment, recreation, wildlife habitat and opportunities for economic development. These benefits are put at risk by continued shoreline erosion. The City recognizes that there exists a need to develop a detailed plan for shoreline restoration and stabilization for Reaches 5C and 6A and encourages the Port to partner in this effort.
 - 1. This plan may include:
 - a. Measures to enhance shoreline stabilization through the introduction of bioengineered solutions.
 - b. Measures to incorporate habitat restoration water-ward of the OHWM.
 - c. Measures to incorporate public access and use through trails, public art, parks and other pedestrian amenities.
 - d. Measures to incorporate sea level rise protection.

- e. Setbacks, building heights and building design considerations.
2. Upon completion of a jointly developed shoreline restoration and stabilization plan for Reaches 5C and 6A, the City will initiate a limited amendment to the SMP to implement this Plan.

12.10 Shoreline Residential Environment Management Policies

- A. The *Shoreline Residential* environment designation should be applied to shoreline areas if they are predominantly single-family or multi-family residential development or are planned and platted for residential development.
- B. Establish standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
- C. Multi-family development and subdivisions of land into more than nine (9) parcels should provide public access.
- D. Commercial development should be limited to water-oriented uses and not conflict with the character in the *Shoreline Residential* environment.
- E. Water-oriented recreational uses should be allowed.
- F. Encourage restoration of degraded shorelines in residential areas and preservation of existing vegetation.
- G. Encourage bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM.

12.11 Urban Intensity Environment Management Policies

- A. The *Urban Intensity* environment should be assigned to shoreline areas if they currently support high intensity uses related to commerce, industry, transportation or navigation, and high-density housing; or are suitable and planned for high-intensity water-oriented uses.
- B. Olympia's shoreline is characterized by a wide variety of "urban" uses and activities, including commercial, industrial, marine, residential, and recreational uses. Together, these uses and activities create a vibrant shoreline that is a key component of Olympia's character and quality of life. These types of uses should be allowed within the *Urban Intensity* environment, with preference given to Water-Dependent and Water-Enjoyment uses. Shorelines in this Shoreline Environment Designation (SED) are highly altered and restoration opportunities are limited. The City's own Percival Landing is a good example of how the immediate shoreline in the Urban Intensity SED should be redeveloped with a focus on public access and enjoyment, sea level rise protection and restoration of shoreline environmental function where feasible.
- C. Nonwater-oriented uses may be allowed where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline.
- D. Preferred uses include water-oriented recreation such as trails and viewing areas, water access, water-related recreation, active playgrounds, and significant art installations, performance space, or interpretive features.
- E. Provide for the restoration, repair and replacement of Percival Landing including consideration of sea level rise protection.

- F. Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- G. Where feasible visual and physical public access should be required as provided for in WAC 173-26-221(4)(d) and this shoreline program.
- H. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and vegetation conservation measures.
- I. Innovative approaches to restoration and mitigation should be encouraged, including incentive and alternative mitigation programs such as Advance Mitigation and Fee In-lieu.
- J. Encourage bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM.

12.12 Port Marine Industrial Environment Management Policies

- A. The *Port Marine Industrial* environment should be assigned to the shoreline area located within the portion of the Port of Olympia that supports uses related to water-oriented commerce, transportation or navigation, or are planned for such uses.
- B. Highest priority should be given to water-dependent and water-related industrial uses.
- C. The preferred location for non-water-dependent industrial uses is in industrial areas as far from the shoreline as feasible.
- D. Coordinate planning efforts to ensure that there is adequate land reserved for water-dependent industrial uses to promote economic development, and to minimize impacts upon adjacent land uses.
- E. Encourage growth and re-development in areas that are already developed.
- F. Industrial use and development should be located, designed, and operated to avoid or minimize adverse impacts upon the shoreline and achieve no net loss of shoreline ecological functions and processes.
- G. Industrial uses and related development projects are encouraged to locate where environmental cleanup can be accomplished.
- H. Encourage the cooperative use of docking, parking, cargo handling and storage facilities on industrial properties.
- I. Innovative approaches to restoration and mitigation should be encouraged, including incentive and alternative mitigation programs such as Advance Mitigation and Fee In-lieu.

12.13 Archaeological, Historic, and Cultural Resources Policies

- A. The destruction or damage to any site having any archaeological, historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the Office of Archaeology and Historic Preservation, should be prevented.

12.14 Parking Policies

- A. Motor vehicle parking is not a preferred use within the shoreline jurisdiction and should be allowed only as necessary to support authorized uses.

- B. Where feasible, parking for shoreline uses should be located in areas outside the shoreline jurisdiction; otherwise locate parking as far landward of the Ordinary High Water Mark as feasible.
- C. Parking facilities or lots within the shoreline jurisdiction should utilize low impact best management practices where feasible to reduce stormwater impacts.
- D. Design and construct parking facilities or lots to be compatible with adjacent uses and to avoid impacts to the shoreline environment.
- E. Provide walkways between parking areas and the buildings or uses they serve. Such walkways should be located as far landward of the Ordinary High Water Mark as feasible.

12.15 Public Access Policies

- A. Protect and maintain existing visual and physical public access so that the public may continue to enjoy the physical, visual, and aesthetic qualities of the shoreline.
- B. Incorporate public access into all new development or redevelopment if it creates or increases a demand for public access. Public access should also be required if the proposed use or development impairs existing legal access or rights.
- C. Protect the rights of navigation and space necessary for water-dependent uses when identifying locations for public access.
- D. Public access should be commensurate with the scale and character of a proposed use or development. Requirements should be reasonable, effective and fair to all affected parties including but not limited to the landowner and the public.
- E. Developments, uses, and activities on or near the shoreline should not impair or detract from the public's use of the water or rights of navigation.
- F. Impacts resulting from public access improvements should be mitigated in order to avoid a net loss of shoreline ecological processes and functions.
- G. Public access should be designed to provide for public safety and comfort, and to limit potential impacts to private property.
- H. Public access should be designed with provisions for persons with disabilities.
- I. Public access should connect to public areas, undeveloped rights-of-way, and other pedestrian or public thoroughfares.
- J. Public access and interpretive displays should be provided as part of publicly-funded projects.

12.16 Scientific and Educational Activity Policies

- A. Encourage scientific and educational activities related to shoreline ecological functions and processes.

12.17 Signage Policies

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

12.18 Vegetation Conservation Area Policies

- A. Developments and activities within the shoreline jurisdiction should be planned and designed to protect, conserve and establish native vegetation in order to protect and restore shoreline ecological functions and system-wide processes occurring within riparian and nearshore areas such as:
1. Providing shade necessary to maintain water temperatures required by salmonids, forage fish, and other aquatic biota;
 2. Regulating microclimate in riparian and nearshore areas;
 3. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macro invertebrates;
 4. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence or severity of landslides;
 5. Reducing fine sediment input into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff;
 6. Improving water quality through filtration and vegetative uptake of nutrients and pollutants;
 7. Providing a source of large woody debris to moderate flows, create hydraulic roughness, form pools, and increase aquatic diversity for salmonids and other species; and
 8. Providing habitat for wildlife, including connectivity for travel and migration corridors.
- B. Restrict clearing and grading within vegetation conservation areas in order to maintain the functions and values of the shoreline environment, including protection of habitat, steep slopes and shoreline bluffs. Any alterations should be the minimum necessary to accommodate an authorized use or development.
- C. The composition, structure and density of the vegetation should replicate the functions of a natural, unaltered shoreline to the greatest extent feasible.
- D. Maintaining a well-vegetated shoreline with native species is preferred over clearing vegetation to create views or provide lawns. Limited and selective clearing for views and lawns, or for safety, may be allowed when slope stability and ecological functions are not compromised, but landowners should not assume that an unobstructed view of the water is guaranteed. Trimming and pruning are preferred over removal of native vegetation. Property owners should be encouraged to avoid or minimize the use of fertilizers, herbicides and pesticides.
- E. Property owners should be encouraged to preserve and enhance woody vegetation and native groundcovers to stabilize soils and provide habitat. Maintaining native plant communities is preferred over non-native ornamental plantings because of their ecological value.
- F. Develop educational materials and establish a public outreach program to educate shoreline landowners and citizens about the importance of protecting and enhancing vegetative buffers along the shoreline.

12.19 View Protection Policies

- A. Preserve views and vistas to and from the water, by public and private entities, to ensure that the public may continue to enjoy the physical and aesthetic qualities of the shoreline, including views of

the water and views of shoreline areas from the water and the iconic views of the State Capitol and Olympic Mountains.

- B. Development should be designed to preserve and enhance the visual quality of the shoreline, including views over and through the development from the upland side of the subject property, and views over and through the development from the water.

12.20 Water Quality Policies

- A. All shoreline uses and activities should be located, designed, constructed, and maintained to avoid impacts to water quality.
- B. Stormwater management facilities for new uses and development should be designed, constructed, and maintained in accordance with the current Olympia Drainage Design and Erosion Control Manual of Olympia. To the extent feasible, low impact development best management practices should be incorporated into every project along the shoreline.
- C. To reduce impacts to water quality, the use of chemical fertilizers, pesticides or other similar chemical treatments should be avoided. Landscaping should be designed to avoid or minimize the use of such products. Maintenance activities should use integrated pest management best practices. Pesticide free areas should be encouraged.
- D. Uses and activities that pose a risk of contamination to ground or surface waters should be prohibited.

12.21 Agriculture Policies

- A. Recognize existing agricultural uses within the City and allow them to continue operating.
- B. New agricultural uses should be prohibited.

12.22 Aquaculture Policies

- A. Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions, adversely impact eelgrass and microalgae, or significantly conflict with navigation and other water-dependent uses.
- B. Aquaculture facilities should be designed and located so as not to spread disease to native aquatic life, establish new non-native species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline.

12.23 Boating Facilities Policies

- A. Boating facilities, such as marinas and launch ramps, are water-dependent uses and should be given priority for shoreline location.
- B. Boating facilities and their accessory uses should be located, designed, constructed and maintained to achieve the following:
 - 1. Protect shoreline ecological functions and system-wide processes. When impacts cannot be avoided, mitigate to assure no net loss to shoreline ecological functions;
 - 2. Maintain use of navigable waters, public access areas, and recreational opportunities, including overwater facilities;
 - 3. Minimize adverse impacts to adjacent land uses such as noise, light and glare, aesthetics, and public visual access; and

4. Minimize adverse impacts to other water-dependent uses.
- C. Development of new boating facilities should be coordinated with public access and recreation plans and should be collocated with Port or other compatible water-dependent uses where feasible. Affected parties and potential partners should be included in the planning process.
- D. Boating facilities should provide physical and visual public shoreline access and provide for multiple uses including water-related uses, to the extent compatible with shoreline ecological functions and processes.
- E. Upland boat storage is preferred over new in-water moorage.
- F. New covered moorage should be prohibited.
- G. Pilings treated with creosote or other similarly toxic materials should be replaced with steel or concrete pilings to minimize adverse impacts to water quality. Unused or derelict pilings should be removed.

12.24 Commercial Policies

- A. Give preference to water-dependent commercial uses, then to water-related, and then water-enjoyment commercial uses in shoreline jurisdiction. Non-water-oriented commercial uses should require a conditional use permit if located within 100 feet of the water.
- B. The preferred location for non-water-oriented commercial uses is in commercial areas no closer than 30 feet from the shoreline.
- C. Coordinate planning efforts between the City and the Port to promote economic development in downtown Olympia.
- D. Commercial development should be located, designed, and operated to avoid and minimize adverse impacts on shoreline ecological functions and processes.
- E. Commercial development should provide public access to shoreline beaches, docks, walkways, or viewing areas unless such improvements are demonstrated to be incompatible due to reasons of safety, security, or impact to the shoreline environment.
- F. Commercial development should be designed to be visually compatible with adjacent and upland properties and so that the height, bulk, and scale do not impair views.
- G. Commercial development should implement low impact development techniques to the maximum extent feasible.

12.25 Industrial Policies

- A. Give preference to water-dependent industrial uses first, then to water-related industrial uses over non-water-oriented industrial uses.
- B. Non-water oriented industrial uses should be prohibited within the shoreline jurisdiction.
- C. Coordinate planning efforts between the City and the Port to ensure that there is adequate land reserved for water-dependent industrial uses, to promote economic development, and to minimize impacts upon adjacent land uses.
- D. Locate water-dependent or water-related industrial marine uses in areas already established or zoned for industrial use.

- E. Industrial use and development should be located, designed, and operated to avoid and minimize adverse impacts on shoreline ecological functions and processes.
- F. Transportation and utility corridors serving industrial uses should be located away from the water's edge to minimize ecological impacts and reduce the need for waterfront signs and other infrastructure.
- G. Industrial uses and related development projects are encouraged to locate where environmental cleanup can be accomplished.
- H. Encourage the cooperative use of docking, parking, cargo handling and storage facilities on industrial properties.
- I. Design port facilities to permit viewing of harbor areas from viewpoints, waterfront restaurants, and similar public facilities which would not interfere with Port operations or endanger public health or safety.

12.26 Recreation Policies

- A. Public recreation is a preferred use of the shoreline. Recreational uses and developments that facilitate the public's ability to reach, touch, and enjoy the water's edge, to travel on the waters of the State, and to view the water and shoreline are preferred. Where appropriate, such facilities should be dispersed along the shoreline in a manner that supports more frequent recreational access and aesthetic enjoyment for a substantial number of people.
- B. Water-oriented recreational uses, such as boating, swimming beaches, and wildlife viewing, should have priority over non-water oriented recreation uses, such as sports fields. A variety of compatible recreation experiences and activities should be encouraged to satisfy diverse recreational needs.
- C. Recreational developments and plans should promote the conservation and restoration of the shoreline's natural character, ecological functions, and processes.
- D. Plan, design, and implement shoreline recreational development consistent with the growth projections, level-of-service standards, and goals established in Olympia's Comprehensive Plan and Parks, Arts and Recreation Plan.
- E. Hiking paths, sidewalks, and bicycle paths in proximity to or providing access to the shoreline are encouraged.
- F. Recreation facilities should be integrated and linked with linear systems, such as hiking paths, sidewalks, bicycle paths, easements, and/or scenic drives.
- G. Recreation facilities should incorporate public education and interpretive signs regarding shoreline ecological functions and processes, historic and cultural heritage.
- H. Recreation facilities should be designed to preserve, enhance, or create scenic views and vistas.
- I. Commercial recreation facilities should be consistent with the provisions for commercial development (see commercial policies above).

12.27 Residential Policies

- A. All residential developments should be located, designed, and properly managed to avoid damage to the shoreline environment and avoid cumulative impacts associated with shoreline armoring, overwater structures, stormwater runoff, septic systems, vegetation clearing, and introduction of pollutants.

- B. The overall density of development, lot coverage, setbacks, and height of structures should be appropriate to the physical capabilities of the site.
- C. Residential development, including the division of land and the construction of residential units, should be designed and located so that shoreline armoring and flood hazard measures will not be necessary to protect land or structures.
- D. Dwelling units and accessory structures should be clustered to preserve natural features and minimize overall disturbance of the site.
- E. New residential development should provide opportunities for public access.
- F. New residential development should minimize impacts upon views from adjacent residential areas, in keeping with the Shoreline Management Act.
- G. 'Live-aboard' vessels associated with marinas may be allowed, but all other overwater residential development including floating homes should be prohibited. A floating home permitted or legally established prior to January 1, 2011 and floating on-water residences legally established prior to July 1, 2014 will be considered conforming uses.
- H. Whenever possible, non-regulatory methods to protect, enhance and restore shoreline ecological functions should be encouraged for residential development.

12.28 Transportation Policies

- A. New roads and railroads, and expansions thereof should not be built within the shoreline jurisdiction. Where this is not feasible, such improvements should be located and designed to have the least possible adverse effect on the shoreline, not result in a net loss of shoreline ecological functions, or adversely impact existing or planned water-oriented uses, public access, and habitat restoration and enhancement projects.
- B. Maintenance and repair of existing roads and railroads should avoid adverse impacts on adjacent shorelines and waters.
- C. Transportation facilities should be designed and located to minimize the need for the following:
 - 1. Structural shoreline protection measures;
 - 2. Modifications to natural drainage systems; and
 - 3. Waterway crossings.
- D. Planning for transportation and circulation corridors should consider location of public access facilities, and be designed to promote safe and convenient access to those facilities.
- E. Pedestrian trails and bicycle paths are encouraged where they are compatible with the natural character, resources, and ecology of the shoreline.
- F. Piers and bridges for roads, pedestrian trails, bicycle paths, and railroads are preferred over the use of fill in upland and aquatic areas.
- G. When transportation corridors are necessary, joint use corridors are preferred and encouraged for roads, utilities, and all forms of transportation/circulation.

12.29 Utility Policies

- A. Utility facilities should be designed, located and maintained to minimize harm to shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and

planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

- B. Expansion of existing sewage treatment, water reclamation, substations, and power plants should be compatible with recreational, residential, or other public uses of the water and shorelands.
- C. Where water crossings are unavoidable, they should be located where they will have the least adverse ecological impact.
- D. New utilities should use existing transportation and utility sites, rights-of-way and corridors, rather than creating new corridors.
- E. Utilities should be located and designed to avoid impacts to public recreation and public access areas, as well as significant historic, archaeological, cultural, scientific or educational resources.
- F. Encourage the use of utility rights-of-way for public access to and along shorelines.
- G. Design and install utilities in such a way as to avoid impacts to scenic views and aesthetic qualities of the shoreline area.

12.30 Shoreline Modification Policies

- A. Locate and design all new development in a manner that prevents or minimizes the need for shoreline modifications.
- B. Regulate shoreline modifications to assure that individually and cumulatively, the modifications do not result in a net loss of shoreline ecological functions.
- C. Give preference to those types of shoreline modifications that have a lesser impact on ecological functions.
- D. Require mitigation of impacts resulting from shoreline modifications.
- E. Plan for the enhancement of impaired ecological functions while accommodating permitted uses. Incorporate all feasible measures to protect ecological functions and ecosystem-wide processes in the placement and design of shoreline modifications. To avoid and reduce ecological impacts, use mitigation sequencing set forth in WAC 173-26-201(2)(e) and Section 3.21 of the SMP.
- F. Give preference to nonstructural flood hazard reduction measures over structural measures, where feasible.

12.31 Dredging Policies

- A. Design and locate new development to minimize the need for dredging.
- B. Allow dredging for water-dependent uses or essential public facilities or both, only when necessary and when significant ecological impacts are minimized and appropriate mitigation is provided.
- C. Allow dredging in locations where a comprehensive management plan has been evaluated and authorized by local and state governmental entities.
- D. Plan and conduct dredging to minimize interference with navigation and adverse impacts to other shoreline uses and properties.
- E. Allow maintenance dredging of established navigation channels and basins.
- F. Conduct dredging and disposal in a manner to minimize damage to natural systems, including the area to be dredged and the area where dredged materials will be deposited. Disposal of dredge spoils on land away from the shoreline is preferred over open water disposal.

- G. Re-use of dredge spoils is encouraged for beneficial uses such as restoration and enhancement.
- H. Dredging and dredge disposal should not occur where they would interfere with existing or potential ecological restoration activities.
- I. Allow dredging for ecological restoration or enhancement projects, beach nourishment, public access or public recreation provided it is consistent with the policies and regulations of the Master Program.

12.32 Fill Policies

- A. Fill should be located, designed, and constructed to protect shoreline ecological functions and system-wide processes. The quantity and extent of fill should be the minimum necessary to accommodate a permitted shoreline use or development.
- B. Fill landward of the Ordinary High Water Mark should be permitted when necessary to support permitted uses, and when significant impacts can be avoided or mitigated.
- C. Fill should be allowed to accommodate berms or other structures to prevent flooding caused by sea level rise, when consistent with the flood hazard reduction provisions in this Shoreline Program. Any such fill should include mitigation assuring no net loss of ecological functions and system-wide processes.
- D. Fill for the maintenance, restoration, or enhancement of beaches or mitigation projects should be permitted.
- E. Fill water-ward of the Ordinary High Water Mark should be permitted only to accommodate water-dependent uses, public access, cleanup of contaminated sites, the disposal of dredge materials associated with a permitted dredging activity, or other water-dependent uses that are consistent with the goals and policies of Olympia's Shoreline Program.
- F. Fill for the purpose of creating new uplands should be prohibited unless it is part of an authorized restoration activity.
- G. Fill should not adversely impact navigation.
- H. Fill should not be allowed where structural shoreline stabilization would be required to maintain the materials placed.

12.33 Moorage Policies

- A. New moorage should be permitted only when it can be demonstrated that there is a specific need to support a water-dependent or public access use.
- B. Moorage associated with a single-family residence is considered a water-dependent use provided it is designed and used as a facility to access watercraft, and other moorage facilities are not available or feasible.
- C. Allow shared moorage for multi-family uses or as part of a mixed use development when public access is provided.
- D. Give preference to buoys over piers, docks, and floats; however, discourage the placement of moorage buoys where sufficient dock facilities exist.
- E. Give preference to shared moorage facilities over single-user moorage where feasible. New subdivisions of more than two lots and new multi-family development of more than two dwelling units should provide shared moorage.

- F. Moorage facilities should be sited and designed to avoid adversely impacting shoreline ecological functions and processes, and should mitigate for unavoidable impacts to ecological functions.
- G. Moorage facilities should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights including but not limited to boating, swimming, and fishing.
- H. Encourage the cooperative use of docking facilities in industrial areas instead of new facilities.
- I. Moorage facilities should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width and height of piers, docks and floats should be no greater than required for safety and practicality for the primary use.
- J. Encourage design elements that increase light penetration to the water below existing or new moorage facilities, such as increasing the structure's height, modifying orientation and size, and use of grating as a surface material. No new over-water covered moorage or boathouses should be allowed.
- K. Moorage facilities should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long-term.

12.34 Restoration and Enhancement Policies

- A. Olympia recognizes the importance of restoration of shoreline ecological functions and processes and encourages cooperative restoration efforts and programs between local, state, and federal public agencies, tribes, non-profit organizations, and landowners to address shorelines with impaired ecological functions and processes.
- B. Restoration actions should restore shoreline ecological functions and processes as well as shoreline features and should be targeted towards meeting the needs of both sensitive and locally important plant, fish and wildlife species as well as the biologic recovery goals for State and federally listed species and populations.
- C. Coordinate restoration and enhancement with other natural resource management efforts and plans.
- D. Consider restoration actions outside of the shoreline jurisdiction that have a system-wide benefit.
- E. When prioritizing restoration actions, the City will give highest priority to measures that have the greatest chance of re-establishing shoreline ecological functions and processes.
- F. Incorporate restoration and enhancement measures into the design and construction of new uses and development, public infrastructure (e.g., roads, utilities), and public recreation facilities.
- G. Shoreline restoration and enhancement should be considered as an alternative to structural stabilization and protection measures where feasible.
- H. All shoreline restoration and enhancement projects should protect the integrity of adjacent natural resources including aquatic habitats and water quality.
- I. Design, construct, and maintain restoration and enhancement projects in keeping with restoration priorities and other policies and regulations set forth in Olympia's Shoreline Program.
- J. Design restoration and enhancement projects to minimize maintenance over time.
- K. Shoreline restoration and enhancement should not extend water-ward more than necessary to achieve the intended results.

- L. Permanent in-stream structures should be prohibited except for restoration and enhancement structures, and transportation and utility crossings as described elsewhere in this Program. In-stream structures should provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources. The location and planning of in-stream structures should give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitat and species.
- M. Restoration and enhancement projects may include shoreline modification actions provided the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.

12.35 Shoreline Stabilization Policies

- A. Preserve remaining unarmored shorelines and limit the creation, expansion and reconstruction of bulkheads and other forms of shoreline armoring.
- B. New development requiring structural shoreline armoring should not be allowed. Shoreline use and development should be located and designed in a manner so that structural stabilization measures are not likely to become necessary in the future.
- C. Structural shoreline armoring should only be permitted when there are no feasible alternatives, and when it can be demonstrated that it can be located, designed, and maintained in a manner that minimizes adverse impacts on shoreline ecology and system-wide processes, including effects on the project site, adjacent properties, and sediment transport.
- D. The reconstruction or expansion of existing hard armoring should only be permitted where necessary to protect an existing primary structure or legally existing shoreline use that is in danger of loss or substantial damage, and where mitigation of impacts is sufficient to assure no net loss of shoreline ecological functions and processes.
- E. Encourage the removal of bulkheads and other hard armoring and restore the shoreline to a more natural condition. Where stabilization is necessary for the protection of private or public property, alternative measures that are less harmful to shoreline ecological functions should be employed.
- F. Nonstructural stabilization measures, including relocating structures, increasing buffers, enhancing vegetation, managing drainage and runoff, and other measures, are preferred over structural shoreline armoring.
- G. Failing, harmful, unnecessary, or ineffective structures should be removed. Shoreline ecological functions and processes should be restored using non-structural methods.
- H. Shoreline stabilization and shoreline armoring for the purpose of leveling or extending property, or creating or preserving residential lawns, yards, or landscaping should not be allowed.
- I. Shoreline stabilization measures, individually or cumulatively, should not result in a net loss of shoreline ecological functions or system-wide processes. Preference should be given to structural shoreline stabilization measures that have a lesser impact on ecological functions, and mitigation of identified impacts resulting from said modifications should be required.
- J. The City should promote non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources. Examples of such methods include public facility and resource planning, technical assistance, education, voluntary enhancement and restoration projects, land acquisition and restoration, and other incentive programs.

- K. Jetties, breakwaters, or groin systems should not be permitted unless no other practical alternative exists. If allowed, they should be located, designed, and maintained to avoid impacts to shoreline ecological functions and system-wide processes.

EXHIBIT B

Chapter 18.20 SHORELINE MASTER PROGRAM REGULATIONS

18.73.000 Chapter Contents

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18.20.100 - Applicability

- A. All proposed uses and development occurring within Olympia’s shoreline jurisdiction shall comply with Olympia’s Shoreline Program and RCW 90.58, Shoreline Management Act (Act). The Shoreline Program applies to all uses and developments within shoreline jurisdiction whether or not a shoreline permit or statement of permit exemption is required.
- B. Olympia’s Shoreline Program shall apply to all of the lands and waters in the City of Olympia that fall under the jurisdiction of the Act (see OMC 18.20.300 - Shoreline Jurisdiction).
- C. The Shoreline Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity which develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act.
- D. Federal agency actions on shorelines of the state are required to be consistent with this Master Program and the Act, as provided by the Coastal Zone Management Act (Title 16 United States Code §1451 et seq.; and §173-27-060(1) WAC, Applicability of RCW 90.58, Shoreline Management Act, to federal lands and agencies).
- E. The permit requirements established under the Shoreline Program apply to all non-federal activities; and to development and uses undertaken on lands not federally owned but under lease, easement, license, or other similar property right of the federal government.

18.20.110 - Relationship to Other Plans and Regulations

- A. Uses, developments and activities regulated by Olympia’s Shoreline Program may also be subject to the provisions of the City of Olympia Comprehensive Plan, the Olympia Municipal Code (OMC), the Olympia Engineering Design and Development Standards, the Washington State Environmental Policy Act (SEPA, RCW 43.21C and WAC 197-11), and various other provisions of local, state and federal law.
- B. Project proponents are responsible for complying with all applicable laws prior to commencing any use, development or activity.
- C. In the event Olympia’s Shoreline Program conflicts with other applicable City policies or regulations, all regulations shall apply and unless otherwise stated, the provisions most protective of the resource shall prevail.

- D. Any inconsistencies between a Shoreline Program and the Shoreline Management Act must be resolved in accordance with the Act.

18.20.120 - Interpretation and Definitions

- A. As provided for in RCW 90.58.900, the Act is exempt from the rule of strict construction. The Act and all aspects of Olympia's Shoreline Program shall therefore be liberally construed to give full effect to the purposes, goals, objectives, and policies for which the Act and Olympia's Shoreline Program were enacted and adopted.

- B. For purposes of this Chapter, the City hereby adopts by reference the definitions of the following terms as set forth in the Revised Code of Washington 90.58.030 and the Washington Administrative Code 173-27-030 and 173-26-020:

- Agricultural activities,
- Agricultural land,
- Aquaculture,
- Average grade level,
- Development,
- Ecological functions or shoreline functions,
- Extreme low tide,
- Feasible,
- Fill,
- Flood plain,
- Geotechnical report or geotechnical analysis,
- Guidelines,
- Marine,
- Nonwater-oriented uses,
- Ordinary High Water Mark (OHWM),
- Priority habitat,
- Priority species,
- Restore, restoration or ecological restoration,
- Shoreline modification,
- Shorelines,
- Shorelines of statewide significance,
- Shorelines of the state,
- Structure,
- Substantial development,
- Substantially degrade,
- Water-dependent use,
- Water-enjoyment use,
- Water-oriented use,
- Water-related use, and
- Wetlands.

- C. For the purposes of this Chapter, the terms defined below shall have the meaning ascribed to them below. Terms not defined in this Chapter nor listed in subsection B above shall be interpreted as set forth in WACs 173-18-030, 173-20-030 and 173-22-030 or OMC 18.02. When the definitions in this

Chapter conflict with the definitions set forth in OMC 18.02, the definitions herein shall govern for purposes of this Chapter.

Access, direct: Physical access that is convenient, of relatively short distance, and does not require extraordinary physical dexterity.

Access, physical: The right and facilities needed to enter upon shoreline areas, such as that access provided by a trail, float, dock, promenade, bridge or boat ramp.

Accessory: Customarily incidental and subordinate.

Administrator: That person designated by the City of Olympia to administer the provisions of Olympia's Shoreline Program. References to 'the City' in this Shoreline Program may be construed as referring to the Administrator.

Alteration: Any human-induced change in existing conditions on a shoreline, critical area and/or its buffer. Alterations include, but are not limited to excavation, grading, filling, channelization (straightening, deepening or lining of stream channels except dredging of sediment or debris alone), dredging, clearing vegetation, draining, constructing structures, compaction, or any other activity that changes the character of a site.

Appurtenance: A structure or development that is necessarily connected to the use and enjoyment of another structure. Common appurtenances include a garage, deck, driveway, utilities, fences and grading which does not exceed two hundred and fifty cubic yards. For purposes of this chapter appurtenances are limited to upland areas.

Backshore: The zone of accretion or erosion lying landward of the Ordinary High Water Mark, wetted by tides during storm events.

Beach: The zone along the shoreline where there is continuous movement of sediment both laterally and vertically. This zone extends from the daily low tide mark to where the permanent line of vegetation begins.

Beach Nourishment: The process of replenishing a beach by artificial means, for example, by the deposition of sand and gravel; also called beach replenishment or beach feeding.

Berm: One or several linear deposits of sand and gravel generally paralleling the shore at or landward of the Ordinary High Water Mark.

Boat ramp: A slab, plank, rail, or graded slope used for launching boats by means of a trailer, hand, or mechanical device.

Boat house: A structure designed for storage of vessels located over water or in upland areas.

Boating facilities: Marinas located both landward and water-ward of the Ordinary High Water Mark (dry storage and wet-moorage types), boat ramps, covered and uncovered moorage, and marine travel lifts. Boating facilities do not include docks serving four or fewer single-family residences.

Breakwater: An offshore structure generally built parallel to the shore that may or may not be connected to the land. Breakwaters may be fixed (e.g., a rubble mound or rigid wall), open-pile, or floating. Their primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating a still-water area along the shore. A secondary purpose is to protect shorelines from erosion caused by wave action.

Bulkhead: A wall usually constructed parallel to the shoreline or at the Ordinary High Water Mark for the primary purpose of containing and preventing the loss of soil or structure caused by erosion

or wave action. Bulkheads are typically constructed of rock, poured-in-place concrete, steel or aluminum sheet piling, wood, or wood and structural steel combinations. Structural foundation walls are not bulkheads unless located at the Ordinary High Water Mark.

Compensation Project: Projects that compensate for unavoidable impacts by replacing or providing substitute resources environments.

Conditional Use: A use, development, or substantial development which is classified as a shoreline conditional use or not otherwise classified in this chapter. Shoreline conditional uses are not synonymous with zoning conditional uses.

Covered Moorage: Boat moorage, with or without walls, that has a solid roof to protect the vessel and is attached to the dock itself or the substrate of the water body. Overwater boat houses are a type of covered moorage.

Critical Habitat: Habitat areas within which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified herein with reference to lists, categories, and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or WAC 232-12-014; in the Priority Habitat and Species (PHS) program by the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with jurisdiction for such designations.

Critical Saltwater Habitat: All kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.

Cumulative impacts or cumulative effects: The impact on the environment or other shoreline functions or uses which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a long period of time. See WAC 173-26-186(8)(d).

Dike or Levee: A natural or man-made embankment, including any associated revetments, to prevent flooding by a stream or other water body.

Dock: A structure built from the shore extending out over the water to provide moorage for commercial or private recreation vessels that does not include above water storage. A dock may be built either on a fixed platform or float on the water.

Dredging: The removal, displacement, or disposal of unconsolidated earth material such as sand, silt, gravel, or other submerged materials, from the bottom of water bodies, ditches, or wetlands; maintenance dredging and/or support activities are included in this definition.

Ecologically Intact Shorelines: Those shoreline areas that retain the majority of their natural shoreline functions and values, as evidenced by vegetation and shoreline configuration. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses.

Enhancement: Actions performed within an existing degraded shoreline, critical area and/or buffer to intentionally increase or augment one or more functions and values of the existing area. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing

wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, or removing invasive plant or animal species.

Erosion: A process whereby wind, rain, water and other natural agents mobilize, and transport, and deposit soil particles.

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

Float: A floating platform similar to a dock that is anchored or attached to pilings and which does not connect to the shore. A float may serve as a temporary moorage facility but is not intended to be used for boat storage. Floats are also used for swimming, diving or water skiing.

Floating home: A building on a float used in whole or in part for human habitation as a single-family dwelling 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: Any floating structure other than a floating home that: (i) is designed or used primarily as a residence on the water and has detachable utilities; and (ii) whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

Flood hazard reduction measure: Flood hazard reduction measures may consist of nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures and stormwater management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program (NFIP).

Floodway: The "floodway" area that has been established in Federal Emergency Management Agency rate maps not including those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

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

Groin: Structure built seaward at an angle or perpendicular to the shore for the purpose of building or preserving an accretion beach by trapping littoral sand drift. Generally narrow and of varying lengths, a groin may be built in a series along the shore.

Harbor Area: The area of navigable waters determined as provided in Article XV, Section 1 of the State Constitution, which shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.

Height (of Structure): The difference between the average grade level and the highest point of a structure (not including temporary construction equipment); provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height except where such

appurtenances obstruct the view of the shoreline from a substantial number of residences on areas adjoining such shorelines.

Instream structure: A structure placed by humans within a stream or river water-ward of the Ordinary High Water Mark that either causes or has the potential to cause water impoundment or the diversion, obstruction, or modification of water flow. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose.

Jetty: A structure generally perpendicular to the shore, extending through or past the intertidal zone. Jetties are built singly or in pairs at harbor entrances or river mouths to prevent accretion of littoral drift in an entrance channel. Jetties also protect channels and inlets from storm waves and cross-currents and to stabilize inlets through barrier beaches. Most jetties are of riprap mound construction.

Joint-use: Sharing of facilities such as docks, piers, floats and similar structures by more than one property owner or by a homeowners' association or similar group.

Limited Master Program Amendment: A master program amendment that addresses specific procedural and/or substantive topics and which is not intended to meet the complete requirements of a comprehensive master program update.

Littoral drift: The mud, sand or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

Marina: A facility with water-dependent components for storing, servicing, fueling, berthing, launching and/or securing boats but at minimum including piers, buoys or floats to provide moorage for five (5) or more boats. Marinas may provide eating, sleeping, and retail facilities for owners, crews, and guests. Those aspects located landward of the Ordinary High Water Mark are referred to as "backshore." Backshore marinas include wet-moorage that is dredged out of the land to artificially create a basin and dry moorage with upland storage that uses a hoist, marine travel lift or ramp for water access. Marina features located in the intertidal or offshore zone water-ward of the Ordinary High Water Mark, including any breakwaters of open type construction (floating breakwater and/or open pile work) and/or solid type construction (bulkhead and landfill), are referred to as "foreshore."

May: The action is acceptable, provided it conforms to the provisions of the SMP.

Mean Higher High Water (MHHW): The average of the higher high water height of each tidal day observed over the National Tidal Datum Epoch.

Mean Lower Low Water (MLLW): The average of the lower low water height of each tidal day observed over the National Tidal Datum Epoch.

Mitigation: Measures prescribed and implemented to avoid, minimize, lessen, or compensate for adverse impacts. Explicit in this definition is the following order of preference:

1. Avoiding an impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of an action and its implementation;
3. Rectifying impacts by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating an impact over time by preservation and maintenance operation during the life of the action;

5. Compensating for an impact by replacing or providing substitute resources or environments; and
6. Monitoring the mitigation and taking remedial action when necessary.

Mitigation plan: A plan for alleviating or lessening the adverse impacts of an activity or development, including measures such as avoiding, minimizing or compensating for impacts. Mitigation plans should include a description and evaluation of existing environmental conditions, functions and values; be prepared by a qualified person; list proposed and any alternative mitigation measures including any continuing activities and long-term performance assurance; evaluate the likelihood of success of those measures; and include a proposed means of monitoring and evaluating the success of the mitigation.

Mixed use: The use of a parcel or structure with two or more different land uses, such as a combination of residential, office, manufacturing, retail, public, or entertainment in a single or physically integrated group of structures.

Moorage Buoy: A floating device anchored to the bottom of a water body to provide tie-up capabilities for vessels or watercraft.

Must: A mandate; the action is required.

Natural Topography or Existing Topography: The topography of a lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling.

No Net Loss: The maintenance of the aggregate total of shoreline ecological functions over time. The no net loss standard contained in WAC 173-26-186 requires that impacts of shoreline use and/or development, whether permitted or exempt from permit requirements, be identified and mitigated such that there are no resulting impacts on ecological functions or processes.

Overwater: Location above the surface of the water or water-ward of the Ordinary High Water Mark, including placement of buildings on piling or floats.

Pier: A fixed platform structure supported by piles in a water body that abuts the shore to provide landing for water dependent recreation or moorage for vessels or watercraft and does not include above water storage.

Port: When capitalized, that government agency known as the Port of Olympia; when lower-case, a center for water-borne commerce and traffic.

Primary Structure: The structure on a lot or parcel occupied by the principal use.

Public Access: The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and shoreline from adjacent locations. See WAC 173-26-221(4).

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

Recreation: Activities and associated facilities for public or private use for refreshment of body and mind through play, amusement or relaxation including hiking, swimming, canoeing, photography, fishing, boat ramps, playgrounds and parks.

Restoration plan: A plan to reestablish or upgrade impaired ecological shoreline processes or functions. Such plan may be to restore a site or shoreline area to a specific condition, or to reestablish functional characteristics and processes which have been lost due to alterations, activities or catastrophic events. Restoration plans should identify the degraded site or area or impaired ecological function(s); establish specific restoration goals and priorities; describe the timing, elements, benchmarks, and other details of proposed restoration activities; include mechanisms or strategies to ensure successful implementation; and provide for monitoring and evaluation of the success of the restoration. Note: the term "Restoration Plan" may also refer to the shoreline Restoration Plan (Appendix A) that is a part of Olympia's Shoreline Master Program.

Revetment: A sloped wall constructed of riprap or other suitable material placed on stream banks or other shorelines to retard bank erosion and minimize lateral movement. The slope differentiates it from a bulkhead, which is a vertical structure.

Riprap: Dense, hard, angular rock free from cracks or other defects conducive to weathering often used for bulkheads, revetments or similar slope/bank stabilization purposes.

Sea Level Rise: An increase in the elevation of marine waters associated with changes in the state of the climate and which can be identified by changes in the mean and/or variability of its properties and that persists for decades or longer.

Shall: A mandate; the action must be done.

Shorelands or Shoreland areas: Lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the Ordinary High Water Mark, floodways and contiguous floodplain areas landward two hundred feet from such floodways, and all wetlands and river deltas associated with the streams, lakes, and tidal waters designated by the Department of Ecology as subject to the Shoreline Management Act.

Shoreline Master Program or Shoreline Program of Olympia: Specified goals and policies of the Olympia Comprehensive Plan together with specified use regulations and including maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards adopted in accordance with the policies of the Shoreline Management Act.

Shoreline Setback: The horizontal distance required between an upland structure or improvement and the Ordinary High Water Mark; usually measured in feet. (Note that in general setbacks are only applicable to structures having a height greater than 30 inches.) Shoreline setbacks outlined in Table 6.3 include and are not in addition to the VCAs outlined in Table 6.3

Shoreline Stabilization or Protection: Protection of shoreline upland areas and shoreline uses from the effects of shoreline wave action, flooding or erosion through the use of structural and non-structural methods. See OMC 18.20.860 for examples.

Should: The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.

Stair Tower: A structure twelve (12) feet or taller in height typically consisting of one (1) or more flights of stairs, usually with landings to pass from one level to another.

Submerged Lands: Areas below the Ordinary High Water Mark of marine waters, lakes and rivers.

Tideland: The land on the shore of marine water bodies between Ordinary High Water Mark (OHWM) or mean higher high tide (MHHW) and the line of extreme low tide which is submerged daily by tides.

Transportation Facilities: Streets, railways, bicycle lanes, sidewalks, and shared use paths consistent with the City of Olympia Engineering Design and Development Standards.

Variance, Shoreline: A means to grant relief from specific bulk, dimensional or performance standards set forth in this chapter or related state regulations pursuant to the criteria of WAC 173-27-170; such may not vary a use of a shoreline.

Vegetation Conservation: Activities to protect and restore vegetation along or near shorelines that minimize habitat loss and the impact of invasive plants, erosion and flooding, and contribute to ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and non-native species.

Vegetation Conservation Area: That area within which vegetation conservation actions take place, as required by this Chapter. Vegetation management provisions may be independent of a permit or approval requirement. VCAs outlined in Table 6.3 are measured from the Ordinary High Water Mark and are located within the shoreline setbacks outlined in Table 6.3.

Visual Access: Access with improvements that provide a view of the shoreline or water but that do not allow physical access to the shoreline.

Weir: A device placed in a stream or river to raise or divert the water.

18.20.200 – General Permit and Authorization Provisions

- A. To be authorized, all uses and development shall be carried out in a manner that is consistent with the Olympia Shoreline Master Program and the policies of the Shoreline Management Act as required by RCW 90.58.140(1), regardless of whether a shoreline permit, statement of exemption, shoreline variance, or shoreline conditional use permit is required.
- B. No use, alteration, or development shall be undertaken within the regulated shorelines by any person without first obtaining permits or authorization.
- C. Applicants shall apply for shoreline substantial development, variance, and conditional use permits on forms provided by the City. Applications shall contain information required in WAC 173-27-180.
- D. All permit applications shall be processed in accordance with the rules and procedures set forth in OMC Titles 14, 16, 17 and 18 and WAC 173-27. Where in conflict state law shall prevail.
- E. The City shall document all project review actions in shoreline jurisdiction. The City shall review this documentation and evaluate the cumulative effects of authorized development on shoreline conditions as part of the 8-year periodic review cycle identified in RCW 90.58.080 (4).

18.20.210 - Shoreline Substantial Development Permits

- A. A Shoreline Substantial Development Permit shall be required for all proposed use and development of shorelines unless the proposal is specifically exempted in accordance with WAC 173-27-040 and RCW 90.58.
- B. In order to be approved, the decision maker shall find that the proposal is consistent with the following criteria:
 - 1. The policies and procedures of RCW 90.58 and provisions of WAC 173-27-150; and

2. All policies and regulations of this Shoreline Program appropriate to the shoreline environment designation and the type of use or development proposed shall be met, except any bulk or dimensional standards that have been modified by approval of a shoreline variance.
- C. Conditions may be attached to the approval of permits as necessary to assure consistency of the project with the Act and this Shoreline Program.
- D. The City is the final authority for a Shoreline Substantial Development Permit, unless an appeal is filed with the State Shorelines Hearings Board.

18.20.220 - Exemptions from Shoreline Substantial Development Permit

- A. Certain developments are exempt from the requirement to obtain a Substantial Development Permit. Such developments still may require a Shoreline Variance or Conditional Use Permit, and all development within the shoreline is subject to the requirements of this Shoreline Program, regardless of whether a Substantial Development Permit is required. Developments which are exempt from the requirement for a Substantial Development Permit are identified in WAC 173-27-040, RCW 90.58.030(3)(e), RCW 90.58.147 and RCW 90.58.515.
- B. Whenever a development is exempt from the requirement to obtain a Shoreline Substantial Development Permit and the development is subject to one or more of the following federal permits, a letter of exemption is required pursuant to WAC 173-27-050:
 1. A U.S. Army Corps of Engineers Section 10 Permit under the Rivers and Harbors Act of 1899; or
 2. A Section 404 Permit under the Federal Water Pollution Control Act of 1972.

18.20.230 - Shoreline Conditional Use Permits

- A. The purpose of a Shoreline Conditional Use Permit is to provide a system which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a Shoreline Conditional Use Permit, special conditions may be attached by the City or the Department of Ecology to control any undesirable effects of the proposed use and to assure consistency with the Shoreline Management Act and Olympia's Shoreline Program.
- B. Uses which are classified in this Chapter as conditional uses may be authorized provided that the applicant can satisfy the criteria set forth in WAC 173-27-160:
 1. That the proposed use will be consistent with the policies of RCW 90.58.020 and the Shoreline Program;
 2. That the proposed use will not interfere with the normal public use of public shorelines;
 3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Shoreline Program;
 4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 5. That the public interest suffers no substantial detrimental effect.
- C. In the granting of all Shoreline Conditional Use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Shoreline Conditional Use Permits were granted for other developments in the area where similar

circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

- D. Other uses which are not specifically classified as a permitted or conditional use in this Shoreline Program may be authorized as a shoreline conditional use provided that the applicant can satisfy the criteria set forth in WAC 173-27-160 (see B above).
- E. Uses that are specifically prohibited by this Chapter shall not be authorized.

18.20.240 - Shoreline Variances

- A. The purpose of a shoreline variance is strictly limited to granting relief from specific bulk, dimensional, or performance standards set forth in this chapter where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of Olympia's Shoreline Program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020.
- B. Shoreline Variance Permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances exist and the public interest will suffer no substantial detrimental effect.
- C. Variances from the use regulations of this Shoreline Program are prohibited.
- D. Land shall not be subdivided to create parcels that are buildable only with a shoreline variance or would be considered non-conforming.
- E. Variances for development and/or uses that will be located landward of the Ordinary High Water Mark and/or landward of any associated wetland may be authorized provided the applicant can demonstrate all of the following:
 - 1. That the strict application of the bulk, dimensional or performance standards set forth in this chapter precludes, or significantly interferes with, reasonable use of the property;
 - 2. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Olympia Shoreline Program, and not, for example, from deed restrictions or the applicant's own actions;
 - 3. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Shoreline Program and will not cause adverse impacts to the shoreline environment;
 - 4. That the variance will not constitute a grant of special privilege not enjoyed by other properties in the area;
 - 5. That the variance request is the minimum necessary to afford relief; and
 - 6. That the public interest will suffer no substantial detrimental effect.
- F. Variance permits for development and/or uses that will be located water-ward of the Ordinary High Water Mark, or within any wetland may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in this Shoreline Program precludes all reasonable use of the property not otherwise prohibited by this Shoreline Program;
 2. That the proposal is consistent with the criteria established under Section E above; and
 3. That the public rights of navigation and use of the shoreline will not be adversely affected.
- G. In the granting of any shoreline variance, consideration shall be given to the cumulative impact of additional requests for like actions in the area. In other words, if Shoreline Variance Permits were granted for other developments in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

18.20.250 - Unclassified Uses

- A. Other uses not specifically classified or set forth in this chapter may be authorized as shoreline conditional uses provided the applicant can satisfy the Shoreline Conditional Use Permit criteria set forth above.
- B. Uses that are specifically prohibited by this chapter cannot be authorized by a Shoreline Conditional Use permit.

18.20.260 - Submittal Requirements

All development proposals under the jurisdiction of this chapter shall satisfy the application submittal requirements set forth in OMC Titles 16, 17 and 18.

18.20.270 - Inspections

Pursuant to RCW 90.58.200, the Administrator or authorized representatives may enter land or structures to enforce the provisions of the Shoreline Program. Such entry shall follow the provisions set forth in OMC 8.24.120.

18.20.280 Shoreline Permit Procedures

- A. Applications for Shoreline Substantial Development Permits, Conditional Use Permits, and Variance Permits are subject to and shall be processed pursuant to WAC Chapter 173-27, as now or hereafter amended, and as provided below.
- B. Applications for Shoreline Substantial Development, Conditional Use, and Variance Permits shall be submitted to the Planning Department on forms supplied by the Department. The application shall contain the information required by WAC 173-27-180 and such other information as may be required by the Department. The applicant shall pay to the Department the application fee prescribed by the approved fee schedule. In addition to the application fee, the applicant shall pay fees for environmental analysis, and for other necessary actions or approvals.
- C. Applications for those Shoreline Substantial Development Permits or shoreline exemptions that are exempt from the State Environmental Policy Act and entirely upland of the Ordinary High Water Mark may be decided by the Administrator if a public hearing is not requested by an interested party. The Hearing Examiner shall hold a public hearing and render a decision regarding other applications identified in subsection A of this section. Consistent with RCW 90.58.140 (10), the Department of Ecology must approve or disapprove Shoreline Conditional Use Permits and shoreline variances issued by the City.

- D. Pursuant to WAC 173-27-110, notice of the application and hearing shall be published in the manner prescribed therein, and mailed to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the subject property, fifteen (15) days before the hearing. In addition, the Planning Department, in its discretion, may give notice in any other manner deemed appropriate.
- E. The decision of the hearings examiner may be appealed to the Shorelines Hearing Board pursuant to WAC 173-27-220.
- F. Pursuant to WAC 173-27-090 and 173-27-100, the Administrator shall review and decide requests for time extensions and permit revisions. The decision of the Administrator may be appealed pursuant to OMC 18.20.290. If the revision to the original permit involves a Conditional Use Permit or Variance, the City shall submit the revision to the Department of Ecology for its final decision.
- G. When developing and adopting procedures for administrative interpretation of this Master Program, the City shall consult with the Department of Ecology to insure that any formal written interpretations are consistent with the purpose and intent of the Act and the SMP Guidelines.

18.20.285 Amendments

- A. Amendments to the Shoreline Master Program, including changes in mapped environmental designations, shall be processed pursuant to Chapter 173-26-100 WAC as now or hereafter amended, and as provided below. All such amendments are required to be approved by the Department of Ecology.
- B. Applications for proposed amendments shall be submitted to the Planning Department on forms supplied by the Department. The applicant shall pay to the Department the application fee and fees for environmental analysis pursuant to RCW 43.21C (SEPA), and for other necessary actions or approvals.
- C. The City Council shall hold the public hearing prescribed by WAC 173-26-100(1). At any time, the Council may refer a proposed amendment to the Planning Commission for a recommendation. If the Planning Commission elects to hold a public hearing, a notice of the hearing shall be given in the same manner as the hearing held by the Council.
- D. If the proposed amendment is a map change of environmental designation, regardless of the size or number of parcels affected, or regardless of whether the applicant is a private person or governmental agency, notice of the proposed amendment shall be mailed to all the owners of the property which is proposed for redesignation, as shown by the records of the county assessor. In addition, notice shall be mailed to all the owners of property which lies within three hundred feet of the boundary of the property proposed for designation. The applicant shall furnish to the Planning Department the names and addresses of property owners who are to receive notice.

18.20.290 Appeals of Administrative Decisions

- A. Any aggrieved person may appeal an administrative decision made pursuant to the Master Program by filing a written appeal with the Planning Department within fourteen calendar days from the date of decision. The appeal shall be filed on forms prescribed by the Department and the appellant shall pay to the Department the appeal fee prescribed by the approved fee schedule.
- B. Appeals of administrative decisions shall be decided by the hearings examiner, after appeal hearing, and shall be subject to the provisions of OMC 18.75. Notice of the hearing shall be mailed to the appellant and may be mailed to any other person who the Planning Department believes may be

affected by or interested in the appeal. Notice shall be mailed not later than ten days before the hearing.

18.20.295 Fees

For purposes of this chapter, the fee schedule in Section 4.40.010 of the Olympia Municipal Code is considered the “approved fee schedule.”

18.20.300 - Shoreline Jurisdiction

- A. The provisions of this Chapter shall apply to all shorelines of the state, all shorelines of statewide significance and shorelands as defined in RCW 90.58.030, within the City of Olympia. These areas are collectively referred to herein as ‘shorelines’.
- B. Olympia’s “shorelands” include lands extending landward for two hundred 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 following bodies of water. The City has chosen not to regulate ‘optional’ shorelands as described in RCW 90.58.030 through this Shoreline Program. Within its municipal boundaries, the City of Olympia shall have authority over the shorelines (water areas) and associated shorelands of Budd Inlet, Capitol Lake, Chambers Lake, Grass Lake, Ken Lake, Ward Lake, Black Lake Ditch and Percival Creek, including those waters of Budd Inlet seaward of extreme low tide which are shorelines of statewide significance.

18.20.310 - Official Shoreline Map

- A. Shoreline Environment Designations have been established and are delineated on the “City of Olympia Shoreline Map” (Shoreline Map) hereby incorporated by reference. The official copy of this map shall reside with the Washington State Department of Ecology.
- B. The Shoreline Map (Figure 4.1) identifies shoreline environment designations and the approximate extent of shoreline jurisdiction within City boundaries. It does not identify or depict the lateral extent of shoreline jurisdiction or associated wetlands and floodplains. The lateral extent of the shoreline jurisdiction shall be determined on a case-by-case basis by the project applicant or a qualified professional, as necessary by the project applicant or a qualified professional, as necessary. The actual extent of shoreline jurisdiction requires a site-specific evaluation to identify the location of the Ordinary High Water Mark (OHWM) and associated wetlands and/or floodplains.
- C. Where uncertainty or conflict occurs in the exact location of a shoreline designation boundary, the Administrator shall interpret the boundaries based upon:
 - 1. The coordinates listed in *Shoreline Environmental Designations for the City of Olympia*;
 - 2. Boundaries indicated as approximately following lot, tract, or section lines;
 - 3. Boundaries indicated as approximately following roads or railways shall be construed to follow their centerlines; and
 - 4. Boundaries indicated as approximately parallel to or extensions of features indicated in 2 or 3 above shall be so construed.
- D. In the event of a mapping error, the City will rely on the criteria in the statute and the WAC pertaining to the determination of shorelines.

18.20.320 - Shoreline Environment Designations

- A. The Olympia Comprehensive Plan sets forth the designation and management policies for the shoreline environment designations established in the Olympia Shoreline Program.
- B. Areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned an *Urban Conservancy* environment designation until the shoreline can be designated through a Shoreline Program amendment.

18.20.330 - Shoreline Environment Purposes

Aquatic – The purpose of the *Aquatic* environment is to protect, restore and manage the unique characteristics and resources of the areas water-ward of the Ordinary High Water Mark.

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

Urban Conservancy – The purpose of the *Urban Conservancy* environment is to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

Waterfront Recreation – The purpose of the *Waterfront Recreation* environment is to provide recreational and public access opportunities and to maintain and restore shoreline ecological functions and preserve open space. This designation is generally intended for appropriate public parks.

Marine Recreation – The purpose of the *Marine Recreation* environment is to establish provisions for boating facilities and water-oriented recreational and commercial uses and to restore shoreline ecological functions and preserve open space.

Shoreline Residential – The purpose of the *Shoreline Residential* environment is to accommodate residential development and appurtenant structures that are consistent with Olympia's Shoreline Program. An additional purpose is to provide public access and recreational uses.

Urban Intensity – The purpose of the *Urban Intensity* environment is to provide for high-intensity water-oriented commercial, transportation, industrial, recreation, and residential uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded, and to provide public access and recreational uses oriented toward the waterfront.

Port Marine Industrial – The purpose of the *Port Marine Industrial* environment is to allow the continued use and development of high-intensity water-oriented transportation, commercial and industrial uses. This area should support water-oriented marine commerce balanced with the protection of existing ecological functions and restoration of degraded areas.

18.20.400 - General Regulations – Intent

This section sets forth regulations that apply to all uses and activities, as applicable, in all shoreline environments. These regulations are to be used in conjunction with the OMC 18.20.600, et seq.

18.20.410 - No-Net-Loss and Mitigation

- A. All shoreline uses and development, including preferred uses and uses that are exempt from shoreline permit requirements, shall be located, designed, constructed, and maintained in a manner that maintains shoreline ecological functions and processes.
- B. Applicants/proponents of new shoreline use and development shall demonstrate that all reasonable efforts have been taken to avoid adverse environmental impacts. Mitigation shall occur in the following order of priority:
 1. Avoiding the adverse impact altogether by not taking a certain action or parts of an action, or moving the action;

2. Minimizing adverse impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering, or taking affirmative steps to avoid or reduce adverse impacts;
 3. Rectifying the adverse impact by repairing, rehabilitating or restoring the affected environment;
 4. Reducing or eliminating the adverse impact over time by preservation and maintenance operating during the life of the action;
 5. Compensating for the adverse impacts by replacing, enhancing, or providing similar substitute resources or environments; and
 6. Monitoring the impact of the compensation projects and taking appropriate corrective measures.
- C. In determining appropriate mitigation measures, lower priority measures shall be applied only when higher priority measures are determined to be infeasible or inapplicable.
- D. Mitigation actions shall not have a significant adverse impact on other shoreline ecological functions.
- E. The City may require applicants to prepare special reports as necessary to address the impacts of proposed development on shoreline ecological functions or to demonstrate that avoidance is not feasible.
- F. When mitigation measures are required, all of the following shall apply:
1. The quality and quantity of the replaced, enhanced, or substituted resources shall be the same or better than the affected resources;
 2. The mitigation site and associated vegetative planting shall be nurtured and maintained such that healthy native plant communities can grow and mature over time;
 3. The mitigation shall be informed by pertinent scientific and technical studies, including but not limited to the Shoreline Inventory (TRPC, June 2009), Shoreline Analysis and Characterization Report (ESA Adolfson, December 2008), Olympia's Shoreline Restoration Plan (Appendix A to the Master Program) and that of other jurisdictions, and other background studies prepared in support of this Program;
 4. The mitigation plan shall include contingencies should the mitigation fail during the monitoring/maintenance period;
 5. Compensatory mitigation shall be done prior to or at the same time as the impact; and
 6. The mitigation activity shall be monitored and maintained to ensure that it achieves its intended functions and values. Mitigation sites shall be monitored for ten (10) years in accordance with the provisions in OMC 18.32.
- G. The applicant may be required to post a financial surety such as an assignment of savings or bond that is 125 percent of the estimated cost of the mitigation to guarantee performance. Estimates shall be prepared in accordance with OMC 18.32. Sureties shall only be released upon acceptance of the mitigation project by the City. If the mitigation project has not performed as prescribed in the mitigation plan, the City shall have the authority to extend the monitoring and surety period, and require additional monitoring reports and maintenance activities beyond the 10-year monitoring period. This requirement applies to all projects where mitigation is used.
- H. Mitigation measures shall occur in the immediate vicinity of the impact. If this is not feasible as determined through the mitigation sequence process (OMC 18.20.410(B)), mitigation may occur

offsite if it provides greater improvement to shoreline ecological functions and values. The City may also approve use of alternative mitigation practices such as in-lieu fee programs, mitigation banks, and other similar approaches provided they have been approved by the Department of Ecology, the Department of Fish and Wildlife, or the Army Corps of Engineers.

I. Type and Location of Mitigation:

1. The Administrator shall give preference to mitigation projects that are located within the City of Olympia. Prior to mitigating for impacts outside City of Olympia jurisdiction, applicants must demonstrate to the Administrator that the preferences herein cannot be met within City boundaries.
2. Natural, Shoreline Residential, Urban Conservancy, Waterfront Recreation, and Aquatic Environments: Compensatory mitigation for ecological functions shall first be in-kind and onsite, or second in-kind and within the same reach, sub-basin, or drift cell, except when all of the following apply:
 - a. It is demonstrated to the satisfaction of the Administrator that there are no reasonable onsite or in sub-basin opportunities (e.g., onsite options would require elimination of high functioning upland habitat), or onsite and in sub-basin opportunities do not have a high likelihood of success based on a determination of the natural capacity of the site to compensate for impacts. Considerations should include: anticipated marine shoreline/wetland/stream mitigation ratios, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands or streams when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity); and
 - b. Offsite mitigation has a greater likelihood of providing equal or improved shoreline ecological functions than the impacted shoreline.
3. Urban Intensity, Marine Recreation and Port Marine Industrial Environments:
 - a. The preference for compensatory mitigation is for innovative approaches that would enable the concentration of mitigation into larger habitat sites in areas that will provide greater critical area or shoreline function.
 - b. The Administrator may approve innovative mitigation projects including but not limited to activities such as advance mitigation, fee in-lieu, mitigation banking and preferred environmental alternatives subject to the mitigation sequencing process contained in Section 18.20.410. Innovative mitigation proposals must offer an equivalent or better level of protection of shoreline ecological functions and values than would be provided by a strict application of onsite and in-kind mitigation. The Administrator shall consider the following for approval of an innovative mitigation proposal:
 - 1) Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas;
 - 2) Consistency with Goals and Objectives of the Shoreline Restoration Plan and the Goals and Objectives of this Program;
 - 3) The applicant demonstrates that long-term management and protection of the habitat area will be provided;

- 4) There is clear potential for success of the proposed mitigation at the proposed mitigation site;
- 5) Restoration of marine shoreline functions or critical areas of a different type is justified based on regional needs or functions and processes;
- 6) Voluntary restoration projects.

J. Fee In Lieu:

1. To aid in the implementation of offsite mitigation, the City may develop a formal program which prioritizes shoreline areas included in the Restoration Plan for use as mitigation and/or allows payment in lieu of providing mitigation on a development site. This program shall be developed and approved through a public process and be consistent with state and federal rules. The program should address:
 - a. The identification of sites within the City that are suitable for use as offsite mitigation and are consistent with the Shoreline Restoration Plan. Site suitability shall take into account shoreline ecological functions, potential for degradation, and potential for urban growth and service expansion; and
 - b. The use of fees for mitigation on available sites that have been identified as suitable and prioritized for restoration and/or enhancement
 - c. Any offsite mitigation would have to be consistent with the goals and objectives of the Shoreline Restoration Plan.
2. If a fee-in-lieu program is approved by the City then in cases where mitigation pursuant to this section is not possible, or where the maximum possible onsite mitigation will not wholly mitigate for anticipated impacts, or where an alternative location, identified in an adopted restoration plan, would provide greater ecological function, the Administrator may approve a payment of a fee in lieu of mitigation. The fee shall be reserved for use in high value restoration actions identified through the Shoreline Restoration Plan.

K. Advance Mitigation

1. Advance mitigation is a form of permittee responsible compensatory mitigation constructed in advance of a permitted impact.
2. To aid in the implementation of advance mitigation, the City may develop a formal advance mitigation program. This program shall be developed and approved through a public process and be consistent with state and federal rules as defined in the Interagency Regulatory Guide: Advance Permittee-Responsible Mitigation (December 2012). At a minimum, the program should address:
 - a. Credit value of advance mitigation proposals
 - b. Credits can only be used by the same applicant
 - c. Establish performance standards
 - d. Establish baseline conditions
3. Any advance mitigation project shall be consistent with the goals and objectives of the Shoreline Restoration Plan.

L. Effect on Building Setbacks

1. No building shall be rendered nonconforming with respect to building setbacks as a result of shoreline restoration or mitigation conducted in accordance with this SMP.

18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) and Chapter 16.70 (flood damage prevention), except as modified in (C) below.
- B. If there are any conflicts or unclear distinctions between this chapter and Olympia's critical area or flood damage prevention regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.
- C. Regardless of other provisions in Chapter 18.32, to ensure consistency with the shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:
 1. In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.
 2. Stream and Important Riparian Area buffer reductions beyond twenty-five percent (25%) (OMC 18.32.435(H)) within shoreline jurisdiction shall require a shoreline variance.
 3. In shoreline jurisdiction, OMC 18.32.515(B) does not apply. Furthermore, OMC 18.32.515(A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).
 4. Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(K)) and only when no other location is feasible.
 5. Utility lines may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(M)).
 6. Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 4 and 5 above shall require a shoreline variance (OMC 18.32.530(E) and (G)).
 7. In shoreline jurisdiction, provisions allowing wetland buffer averaging (OMC 18.32.535(F)) and administrative wetland buffer reductions (OMC 18.32.535(G)) shall not be used together.
 8. Wetland buffer reductions beyond twenty-five percent (25%) (OMC 18.32.535(H)) within shoreline jurisdiction shall require a shoreline variance.

9. Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).
10. Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.
11. New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.
12. Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).
13. In shoreline jurisdiction, the point scale used to separate wetland categories in OMC 18.32.510 does not apply. Category I wetlands are those that score 23 or more points, category II wetlands are those that score between 20 and 22 points, category III wetlands are those that score between 16 and 19 points, and category IV wetlands are those that score fewer than 16 points.

18.20.430 - Archaeological, Historic, and Cultural Resources

- A. Archaeological sites located both in and outside shoreline jurisdiction are subject to RCW 27.44 (Indian Graves and Records) and RCW 27.53 (Archaeological Sites and Records).
- B. Development or uses that impact such sites shall comply with WAC 25-48 (Archaeological Excavation and Removal Permit) as well as the requirements of OMC 18.12, Historic Preservation, and the applicable requirements of this chapter.
- C. Shoreline use and development on sites having archaeological, historic, or cultural resources shall be designed and constructed in a manner that prevents impacts to the resource and provides educational benefits to the public, where appropriate.
- D. Developers and property owners shall immediately stop work and notify the City, the Office of Archaeology and Historic Preservation and affected Indian tribes if archaeological resources are uncovered during excavation.
- E. Development that is proposed in areas documented to contain archaeological resources shall have a site inspection or evaluation by a professional archaeologist in coordination with affected Indian tribes during the development review process.

18.20.440 - Parking

- A. Parking facilities or lots within the shoreline jurisdiction shall be allowed only to support authorized uses.
- B. Commercial parking facilities or lots as a primary use are prohibited within the shoreline jurisdiction.
- C. Parking facilities or lots shall be located landward of the principal building, except when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.
- D. Parking facilities or lots shall be designed and landscaped to minimize adverse impacts upon adjacent shorelines and abutting properties. Landscaping shall comply with OMC 18.36 and the vegetation conservation standards of OMC 18.20.495.

- E. Parking facilities or lots shall provide safe and convenient pedestrian circulation within the parking area to the building or use it serves, and shall be located as far landward of the Ordinary High Water Mark as feasible.
- F. To the extent feasible, new parking lots shall include the most effective stormwater treatment and 'best management' practices. At minimum, such treatment shall conform to the 'Enhanced Menu' issued by the Washington Department of Ecology's "Runoff Treatment BMPs" of August, 2012.

18.20.450 - Public Access

- A. Public access shall be required for the following types of development, unless waived pursuant to Section C.
 - 1. Residential developments of more than nine residential lots or dwelling units;
 - 2. Commercial or industrial developments; and
 - 3. Shoreline developments proposed or funded by public entities, port districts, state agencies, or public utility districts.
- B. Where a development or use will interfere with an existing public access, the development or use shall provide public access to mitigate this impact. Impacts to public access may include blocking access or discouraging use of existing onsite or nearby public access.
- C. The public access requirement, when related to development not publicly funded, may be waived by the Administrator where one or more of the following conditions are present:
 - 1. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
 - 2. Constitutional or other legal limits apply;
 - 3. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions such as limiting hours of use; or
 - 4. Adverse impacts to shoreline ecological processes and functions that cannot be mitigated will result; in such cases, offsite and alternative access may be required to mitigate impacts.
- D. Public access provisions shall run with the land and be recorded via a legal instrument such as an easement, or as a dedication on the face of a plat or short plat. Such legal instruments shall be recorded with the Thurston County Auditor prior to issuance of a certificate of occupancy or final plat approval, whichever comes first.
- E. Public access sites shall be constructed and available for public use at the time of occupancy of the use or activity or in accordance with other provisions for guaranteeing installation through a monetary performance assurance.
- F. Public access facilities shall be available to the public from dawn to dusk unless specific exceptions are granted through a shoreline substantial development or other permit.
- G. Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.
- H. Maintenance of public access facilities on private property shall be the responsibility of the property owner, unless an accepted public or non-profit agency agrees to assume responsibility through a formal agreement recorded with the Thurston County Auditor. Where appropriate, this

responsibility may be required of a future homeowners' association, or other entity approved by the City.

- I. Signage indicating the public's right of access and hours of access shall be installed and maintained by the owner, developer or assignee. Such signs shall be posted in conspicuous locations at public access sites.
- J. Public access areas shall be approved by the Administrator during review of the shoreline permit. If exempt from a shoreline permit, public access areas may be required by the Administrator.

18.20.460 – Design of Public Access

- A. Public access shall be located, designed and maintained in accordance with all of the following:
 1. The size and configuration of public access areas shall be at least the minimum necessary based on location, intended use, compatibility with adjacent uses, and proximity to other public access areas.
 2. Trails and shared uses paths (including access paths) shall be buffered from sensitive ecological features and provide limited and controlled access to sensitive features and the water's edge where appropriate (for example, when part of an interpretive or educational site). Fences may be used to control damage to vegetation and other sensitive ecological features. If used, fences shall be designed and constructed of materials that complement the setting, as well surrounding features or structures, and allow for wildlife movement.
 3. Where feasible, public access shall be located adjacent to other public areas, accesses and connecting trails, with connections to the nearest public street or trail.
 4. Where physical access to the water's edge is not feasible, a public viewing area shall be provided.
 5. Public access shall be designed to minimize intrusions on privacy and conflicts between users. For example, provide a physical separation between public and private spaces, orient public access away from windows or private outdoor spaces, or provide a visual screen such as a fence or vegetation.
 6. Public access shall be designed to provide for the comfort and safety of users. Such spaces shall be visible from the street or adjacent uses, have adequate lighting, and be designed to discourage offensive or illegal conduct.
 7. Public amenities such as, but not limited to, a covered shelter, benches, or picnic table shall be provided in public access areas.
 8. Where feasible, public access areas shall be barrier free for the physically disabled in accordance with the Americans with Disabilities Act (ADA).
- B. The design and layout of public access shall conform to applicable City design standards and procedures, such as the width of public access easements or dedications for trails and shared-use paths and trail classification and corresponding corridor widths set forth in the Olympia Engineering Design and Development Standards (EDDS). Any deviation shall be the minimum necessary to achieve the intended purpose of such deviation. It is not the intent of the City to authorize informal trails and the standards contained herein are not intended to address them.

18.20.470 - Scientific and Educational Activities

- A. Scientific and educational uses and activities are limited to those which will:
 - 1. Not jeopardize existing wildlife populations or organisms;
 - 2. Not permanently alter the character of biological habitats; and
 - 3. Not degrade the character of the shoreline environment in which they are located.
- B. Temporary disruption of biological systems may be permitted when a scientific activity will result in their restoration or improvement, and only when a restoration plan is approved by the City and other agencies with jurisdiction.
- C. Permits for scientific or education activities that will span an extended period of time may be granted; limits on the duration of the use or activity may be established as a condition of approval.
- D. Structures associated with scientific and educational activities such as museums, schools, or visitor centers may be allowed subject to the use provisions of OMC 18.20.620.
- E. Temporary facilities used in conjunction with the scientific or educational project shall be removed at the conclusion of the project.

18.20.480 - Signage Regulations

Signage shall conform to OMC 18.42, Sign Regulations. In addition, the following provisions shall apply within the shoreline jurisdiction:

- A. All offsite signs, except for directional signs, shall be prohibited;
- B. All signs shall be located and designed to avoid interference with vistas, viewpoints, and visual access to the shoreline;
- C. Signs shall be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses;
- D. Over water signs and signs on floats or pilings, except as needed for navigational purposes, shall be prohibited;
- E. Where lighted signs and illuminated areas are permitted, such illuminating devices shall be shaded and directed so as to minimize, to the extent feasible, light and glare from negatively impacting neighboring properties, streets, public areas or water bodies. Lighted signs shall be designed to reduce glare when viewed from surrounding properties or from the water. Lighting shall not shine directly upon or cast a glare on the water; and
- F. All signs shall be located in such a manner that they minimize interference with public views. Free standing signs which may disrupt views to the water shall be placed on the landward side of development.

18.20.490 - Vegetation Conservation Areas - Intent

- A. Vegetation conservation includes activities to protect and restore upland vegetation along or near marine or fresh water bodies to minimize habitat loss and the impact of invasive plants, erosion and flooding and contribute to the ecological functions of shoreline areas. The provisions of this section establish vegetation conservation areas, and set forth regulations for the prevention or restriction of native vegetation removal, grading, vegetation restoration, control of invasive weeds and non-native species, and tree maintenance adjacent to the shoreline.

- B. However, unless otherwise stated, vegetation conservation does not include those activities expressly authorized by the Washington State Forest Practices Act, but does include conversion to other uses and those other forest practice activities over which the City has authority.

18.20.492 – General Vegetation Conservation Regulations

- A. Vegetation conservation provisions apply to all shoreline developments as required in Table 6.3. All vegetation conservation in these areas shall conform to the regulations and standards below.
- B. Parcels fronting on lakes, marine waters, streams or wetlands shall preserve or provide native vegetation within vegetation conservation areas, also known as VCAs or buffers, upland of and adjacent to the Ordinary High Water Mark as required in Table 6.3. If present on a parcel, note that critical area buffers may be larger than or may encompass VCAs.
- C. Except as provided herein, applicants for new development, expansion, or redevelopment shall protect and preserve existing native vegetation within the vegetation conservation area.
- D. Mitigation in the form of restoration or creation of vegetation conservation area may be required as a condition of development approval consistent with mitigation sequencing priorities in OMC 18.20.410(B). Further, an applicant may propose such restoration for reductions in required setbacks or for encroachments into required vegetation conservation areas as provided in OMC 18.20.493 and/or for water dependent uses as provided in Table 6.3.
- E. Where applicable, nonconforming and water dependent uses that cannot provide a vegetation conservation area due to the nature of the use or activity shall provide comparable mitigation. For example, if it is not feasible to provide vegetation onsite due to constraints such as lot size, topography, or existing site improvements, vegetation may be provided offsite in accordance with the provisions of OMC 18.20.410(H).

18.20.493 - Permitted Uses and Activities within Vegetation Conservation Areas

Subject to other limitations of this chapter and if also allowed within the applicable shoreline environment designation, the following uses and activities are permitted within vegetation conservation areas without a variance.

1. Transportation facilities and utilities within existing rights-of-way only when it has been determined that alternative upland locations are not feasible;
2. Public access viewpoints, pedestrian access from upland areas to the shoreline, piers, docks, launch ramps, viewing platforms, wildlife viewing blinds and other similar water-oriented uses;
3. Public recreation trails identified in adopted plans and those located on existing road or railroad beds;
4. Educational facilities such as viewing structures and platforms, wildlife viewing blinds and interpretive sites;
5. Equipment necessary for conducting water-dependent uses such as boat travel lifts for boat maintenance and upland storage, and loading equipment for transport of logs and natural resource materials. Where logs or natural resource materials are loaded directly from the shoreline to a vessel, impacts to the shoreline shall be minimized by:
 - a. Constructing designated loading areas;
 - b. Maintaining equipment to avoid fuel or oil leaks; and

- c. Implementing best management practices to reduce erosion and discharge of untreated stormwater directly into the water.
 - 6. Removal of noxious weeds or hazardous trees;
 - 7. Removal and thinning of trees and vegetation on public property to maintain public view corridors identified in Section 18.20.500;
 - 8. Improvements that are part of an approved enhancement, restoration, vegetation management or mitigation plan;
 - 9. Shoreline stabilization only when it is part of an approved project;
 - 10. The following facilities, fixtures and furnishing shall be allowed within the VCA of public parks and water related recreation areas: 1. paved or unpaved trails, bridges and pedestrian access; 2. picnic shelters, tables and pads not greater than 400 square feet in size; 3. seating, benches, drinking fountains, garbage cans and other site furnishing; 4. public art and art installations; 5. signs, environmental interpretive facilities and information kiosks, and interpretive exhibits; 6. wildlife viewing structures; 7. play equipment and other similar passive parks furnishing and fixtures; and
 - 11. Water dependent uses as authorized in OMC 18.20.620 Table 6.3.
- B. Appurtenant and accessory structures other than those described above or in OMC 18.20.690(C) are prohibited within the vegetation conservation area.

18.20.494 – Alterations to Existing Development

Alterations to existing development, including accessory structures, decks, patios, sport courts, and walkways, shall protect existing native vegetation within the vegetation conservation area. If the minimum vegetation conservation area is not present when a site alteration is proposed, the Administrator may require establishment of such vegetation conservation area where required by Table 6.3 that is necessary to prevent adverse impacts to the shoreline ecological functions that may result from any proposed alterations.

18.20.495 - Vegetation Conservation Area Standards

- A. Speculative clearing, grading, or vegetation removal is prohibited. Clearing, grading and vegetation removal within shoreline setbacks and Vegetation Conservation Areas shall be the minimum necessary for the authorized use or development.
- B. The minimum width of Vegetation Conservation Areas is set forth in Table 6.3 and measured perpendicular to the Ordinary High Water Mark along the entire shoreline of the property. To account for site conditions and to create a more natural Vegetation Conservation Area, the minimum widths may be reduced by 50% by the Administrator upon finding that the total VCA of the parcel is equivalent to the minimum area that would result from the standard minimum width and such reduction will not result in adverse impacts to the shoreline functions; such reductions also known as 'VCA averaging.' Vegetation Conservation Areas exceeding minimums may be proposed or required if necessary to ensure no net loss of shoreline ecological functions will result from proposed shoreline development.
- C. In general, protected and restored Vegetation Conservation Areas shall be composed of native vegetation comparable in species density and diversity to an ecologically similar undisturbed area. Such species density and diversity shall be determined by the Administrator based on best available

science. Provided, however, that up to 33% (one-third) of the Vegetation Conservation Area may be utilized for authorized uses and activities described in OMC 18.20.493 provided that impervious surfaces shall not exceed 25% of the VCA. In no case shall the width of a required VCA be less than 10 feet. Encroachment of an authorized use or activity shall require an equivalent area elsewhere onsite be set aside as a VCA and shall not result in a net loss to shoreline ecological functions.

- D. When restoring or enhancing shoreline vegetation, applicants shall use native species that are of a similar diversity, density and type commonly found in riparian areas of Thurston County. The vegetation shall be nurtured and maintained to ensure establishment of a healthy and sustainable native plant community over time.
- E. Lawns are prohibited within the Vegetation Conservation Area due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications.
- F. Trimming of trees and vegetation is allowed within the Vegetation Conservation Area subject to:
 - 1. This provision does not allow clearing of trees or vegetation except as provided below and elsewhere in this chapter;
 - 2. The limbing or crown-thinning of trees larger than three inches in caliper shall comply with National Arborist pruning standards, unless the tree is a hazard tree as defined in OMC 16.60, Tree Protection and Replacement. No more than 25% of the limbs on any single tree may be removed and no more than 25% of the canopy cover in any single stand of trees may be removed for a single view corridor.
 - 3. Trimming does not directly impact the nearshore functions and values including fish and wildlife habitat;
 - 4. Trimming is not within a critical area of Chapter 18.32 or associated buffer; and
 - 5. Tree topping is prohibited.
- G. Vegetation shall be maintained over the life of the use or development.
- H. Vegetation conservation areas shall be placed in a separate tract in which development is prohibited; protected by execution of an easement dedicated to a conservation organization or land trust; or similarly protected through a permanent mechanism acceptable to the City.

18.20.496 – Vegetation Management Plan

- A. Clearing and grading within the shoreline jurisdiction is only permitted upon approval by the Administrator of a Vegetation Management Plan prepared by the applicant. If mitigation measures are required as outlined in OMC 18.20.410(F), the Vegetation Management Plan may be combined with the Mitigation Plan, and must be prepared by a qualified professional. The Vegetation Management Plan shall include:
 - 1. A map illustrating the distribution of existing plant communities in the area proposed for management. The map must be accompanied by a description of the vegetative condition of the site, including plant species, plant density, any natural or manmade disturbances, overhanging vegetation, and the functions served by the existing plant community (e.g., fish and wildlife values, slope stabilization);
 - 2. A description of how mitigation sequencing was used and how the plan achieves no net loss of shoreline ecological functions the vegetation is providing;

3. An inventory of existing vegetation, including a description of vegetation overhanging the shoreline;
4. A detailed plan indicating which areas will be preserved and which will be cleared, including tree removal;
5. Drawings illustrating the proposed landscape scheme, including the species, distribution, and density of plants. Any pathways or non-vegetated portions and uses shall be noted;
6. A description of any vegetation introduced for the purposes of fish and wildlife habitat;
7. Installation of vegetation shall meet the following standards:
 - a. Native species that are of a similar diversity, density and type commonly found in riparian areas of Thurston County shall be used, unless non-native substitutes are authorized by the Administrator based on availability of native materials and said materials are appropriate to soil and climate conditions;
 - b. On public property, vegetation shall be selected and located to maintain public views identified in approved plans;
 - c. At the time of planting, plant materials shall be consistent with the standards in OMC 18.36, Landscaping and Screening;
 - d. The applicant may be required to install and implement an irrigation system to insure survival of vegetation planted. For remote areas lacking access to a water system, an alternative watering method may be approved;
 - e. Planting in the fall or early spring is preferred over summer for purposes of plant establishment; and
 - f. For a period of 10 years after initial planting, the applicant shall replace any unhealthy or dead vegetation as part of an approved vegetation management plan.
- B. Loss of wildlife habitat shall be mitigated onsite. If onsite mitigation is not feasible, offsite mitigation shall be permitted in accordance with OMC 18.20.410; and
- C. The Administrator may waive some but not all of the vegetation installation requirements in this section when the applicant demonstrates that the proposal will result in no net loss of shoreline functions by improving shoreline ecological functions of the shoreline, such as the removal of invasive species, shoreline restoration/enhancement, or removal of hard armoring.
- D. For other applicable regulations, see OMC Chapters 16.60, 18.32, and 18.36.
- E. In addition to A to D above all required vegetation installation shall conform to the standards of section 18.20.410(F) and (G) of this SMP.

18.20.500 - View Protection - Intent

Over 50 percent of Olympia's marine shoreline is publicly owned. Much of this shoreline, such as at Percival Landing, West Bay Park, Priest Point Park, and the East Bay area, provide opportunities for the public to enjoy the views of Mount Rainier, the Capitol, Budd Inlet and the Olympic Mountains. The future may provide even greater opportunities for the public to enjoy the scenic qualities of the area.

The protection of these public views from the shoreline is an important objective of Olympia's Shoreline Program. Protection of such views to and from the shoreline can be achieved through multiple strategies including public ownership and use of shorelands, the inclusion of public access and

viewpoints in private development, establishing key view corridors, establishing height limits and design standards, vegetation management standards, and visual assessment where views may be impacted.

Private uninterrupted views of the shoreline, although considered, are not expressly protected. Property owners concerned with the protection of views from private property are encouraged to obtain view easements, purchase intervening property and/or seek other similar private means of minimizing view obstruction.

18.20.504 View Protection Regulations

- A. No permit shall be issued pursuant to this chapter for any new or expanded building or structure of more than thirty-five (35) feet above average grade level that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where Olympia's Shoreline Program does not prohibit the same and then only when overriding considerations of the public interest will be served.
- B. All development within the shoreline jurisdiction shall comply with the view protection standards of OMC 18.110.060.
- C. Public shoreline views shall be protected by the use of measures, including but not limited to, maintaining open space between buildings, clustering buildings to allow for broader view corridors, and minimizing building height and total lot coverage.
- D. When there is an irreconcilable conflict between water-dependent uses and physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.
- E. Buildings shall incorporate architectural features that reduce scale such as increased setbacks, building modulation (vertical and horizontal), pitched roofs, angled facades, and reduced massing.
- F. New development, uses and activities shall locate trash and recycling receptacles, utility boxes, HVAC systems, electrical transformers, fences and other appurtenances to minimize interference with public views.
- G. Design and install utilities and accessory structures in such a way as to avoid impacts to scenic views and aesthetic qualities of the shoreline area.
- H. Communication and radio towers shall not obstruct or destroy scenic views of the water. This may be accomplished by design, orientation and location of the tower, height, camouflage of the tower, or other features consistent with utility technology.
- I. Fences, walls, hedges and other similar accessory structures shall be limited to four (4) feet in height between the Ordinary High Water Mark and primary structures.
- J. Where on-going maintenance of vegetation on public property to protect public views is necessary, a Vegetation Management Plan shall be approved by the Administrator prior to any work. At a minimum, the Vegetation Management Plan shall identify the viewshed to be preserved, the areas where vegetation will be maintained (including tree removal), and percent of vegetation to be retained. If trees are removed, they shall be replaced with three trees for each tree removed up to a minimum density of 220 trees per acre.

18.20.507 - Visual Impact Assessment

The applicant of a building or structure that exceeds 35 feet to the highest point above average grade level shall prepare and submit a visual analysis in conjunction with any development permit. At a

minimum, the analysis shall address how the proposed project impacts views protected under RCW 90.58.320 and OMC 18.110.060. The Administrator may require additional information such as photo-simulations showing proposed buildings in relation to impacted views. If the analysis shows the proposed building or structure would block or significantly compromise the view of a substantial number of residences in adjoining areas or views protected under OMC 18.110.060, the City may place conditions on the development to prevent the loss of views.

18.20.510 - Water Quality

- A. Septic systems for new development within the shoreline jurisdiction are prohibited.
- B. Stormwater management facilities for new uses and development shall be designed, constructed, and maintained in accordance with the Olympia Drainage Design and Erosion Control Manual of Olympia. To the extent feasible, low impact development best management practices shall be incorporated into every project along the shoreline. All redevelopment and new development within Reaches 4 and 5A shall require compliance with the Drainage Design and Erosion Control Manual of Olympia without consideration to the thresholds established therein.
- C. The use of wood treated with creosote, copper, chromium, arsenic or pentachlorophenol shall only be approved upon a finding of no feasible alternative.
- D. All structures that come in contact with water shall be constructed of materials that will not adversely affect water quality or aquatic plants or animals.
- E. Uses and activities that pose a risk of contamination to ground or surface waters shall be prohibited in shoreline jurisdiction. Such uses include, but are not limited to the following:
 - 1. Storage, disposal, or land application of waste (excluding secondary/tertiary treated effluent from municipal sewer systems), including solid waste landfills;
 - 2. Operations for confinement feeding of animals;
 - 3. Agricultural activities that involve the application of fertilizers, pesticides, or other chemical treatments;
 - 4. Junk yards and auto wrecking yards;
 - 5. Storage of hazardous or dangerous substances within a floodplain; and
 - 6. Alterations to structures and uses served by septic systems that do not meet local or state requirements.

18.20.600 - Shoreline Use and Development – Intent

The purpose of this section is to set forth regulations for specific common uses and types of development that occur within Olympia's shoreline jurisdiction. Where a use is not listed on Table 6.1, the provisions of OMC 18.20.250, Unclassified Uses, shall apply. All uses and activities shall be consistent with the provisions of the shoreline environment designation in which they are located and the general regulations in OMC 18.20.400 through 18.20.510.

18.20.610 – General Use and Development Provisions

- A. Developments that include a mix of water-oriented and nonwater-oriented uses may be approved if the Administrator finds that the proposed development avoids impacts to shoreline ecological functions, provides public access, and otherwise enhances the public's ability to enjoy the shoreline.

- B. All uses not explicitly permitted in this chapter shall require a Shoreline Conditional Use Permit. The Hearing Examiner may impose conditions to ensure that the proposed development meets the policies of Olympia's Shoreline Program.
- C. All development and uses must conform to all applicable provisions of this Shoreline Program, including the shoreline use table and the development standards table in OMC 18.20.600 through 18.20.710, unless otherwise stated or upon approval of a shoreline variance.
- D. Except as required by state or federal regulations or explicitly authorized by this chapter, forestry practices, mining and solid waste uses and activities are prohibited in all shoreline areas.

18.20.620 - Use and Development Standards Tables

- A. Table 6.1 identifies allowed uses and activities by shoreline environment designation. Table 6.2 establishes building heights by shoreline environment designation. Table 6.3 establishes development standards by shoreline environment designation including shoreline setbacks and Vegetation Conservation Areas. These tables shall be used in conjunction with the written provisions for each use. Table footnotes provide additional clarification or conditions applicable to the associated uses or development regulation.
- B. Maximum Shoreline Building Heights are not applicable to light and utility poles; nor to equipment used for loading and unloading such as conveyors and cranes within the Port Marine Industrial environment and adjacent Aquatic environment.
- C. Upon finding that such structures will not result in a net loss of shoreline functions and are otherwise consistent with Olympia's Shoreline Program, the Administrator may authorize small buildings and other structures within the "building setback" area but outside of the VCA, if locating such structures outside of shoreline jurisdiction is not feasible. Any such structures shall not exceed a total 800 square feet within each development, shall not be located within critical areas or their buffers unless authorized in OMC 18.20.420, shall not be closer than 30 feet to the Ordinary High Water Mark or the width of the VCA whichever is greater, and shall not exceed a height of 20 feet. To ensure protection of shoreline functions and views, the Administrator may attach conditions to approval of the permits as necessary to assure consistency of the project with the Act and this Shoreline Program.
- D. Setback reductions shall be allowed as provided in Table 6.3 and subject to the following:
 - 1. Incentives for setback reductions noted herein are cumulative up to the maximum reduction allowed. Incentive eligible restoration projects may be completed in association with, or in addition to, required mitigation projects, however, no setback reductions shall be allowed for required mitigation projects. Prior to the Administrator approving setback reduction incentives, the applicant shall demonstrate compliance with the mitigation sequence at a site level as provided in Section 18.20.410 of the SMP. Restoration incentives must be achieved onsite unless the Administrator finds this is not feasible or would have significantly less ecological benefit than offsite restoration. Offsite restoration shall be consistent with the objectives for mitigation outlined in OMC 18.20.410(H) and (I). Should no offsite restoration option be available, onsite restoration shall be required to obtain the associated setback reduction incentive.
 - 2. Preferred public access shall be physical access to the marine shoreline from the public right-of-way via a sidewalk or paved trail on a publicly dedicated easement no less than six (6) feet in width and constructed to City standards as included in the City's Engineering Design and Development Standards. Other forms of indirect access such as viewing towers and platforms

may be considered where direct access to the shoreline is deemed dangerous due to the nature of the use of the property or the conditions at the shoreline. Existing access meeting the standards described herein may be used to meet setback incentive provisions.

3. Trail shall be a commuter multi-use trail on a public easement no less than twelve (12) feet in width and providing no less than a 12-foot wide clear travel path, providing continuous public access across the site and shall be placed upland of the Ordinary High Water Mark and constructed to commuter multi-use trail standards as included in the City's Engineering Design and Development Standards. Existing trails meeting the requirements described herein may be used to meet setback incentive provisions. To receive setback reduction credit the trail must be built on the site.
4. Vegetation restoration shall be planting of native shoreline vegetation in excess of that required to achieve no net loss of environmental function from unavoidable impacts associated with a development proposal. Plantings shall substantially mimic undisturbed native shorelines in the South Puget Sound in plant species, species mixture and plant density. Vegetation restoration shall be accomplished through an approved Vegetation Management Plan. Restoration ratios shall begin at 2 square feet of restoration for every one (1) square foot reduction of the required setback area and demonstrate no net loss of environmental function.
5. Removal of bulkhead shall be the physical removal of a vertical structure and replacement with a softened shoreline treatment. Measures may include use of shoreline contouring, gravels, cobbles, limited use boulders, logs, and vegetation in a manner that promotes native aquatic species and protects the shoreline from erosion.
6. Replacement of a hardened shoreline shall be the physical removal of rip rap or other non-vertical shoreline protection and replacement with a softened shoreline treatment. Measures may include use of shoreline contouring, gravels, cobbles, limited use boulders, logs, and vegetation in a manner that promotes native aquatic species and protects the shoreline from erosion.
7. Water Dependent uses may encroach into the required setback and vegetation conservation area as described in Table 6.3 in accordance with the mitigation sequence in OMC 18.20.410. Reductions to less than a 20-foot setback shall only be allowed where the following two requirements have been met:
 - a. Alternative public access has been provided sufficient to mitigate the loss of direct public access to the shoreline and in no case shall public access be less than twelve (12) feet as described in paragraph 3 above;
 - b. The shoreline bulkhead removal or hardening replacement requirements of 5 or 6 above are met for each linear foot of shoreline impacted and the applicant demonstrates that a reduced setback would not result in the need for future shoreline stabilization.
8. No setback shall be required in the Port Marine Industrial shoreline environmental designation, however, mitigation shall be required to offset any impacts determined through the mitigation sequencing process to ensure no net loss of environmental function and to mitigate for loss of public access.

Table 6.1 – Uses and Activities

LEGEND: P = Permitted C = Shoreline Conditional Use Permit X = Prohibited

C/P = A Shoreline Conditional Use Permit is required if wholly or partially located within 100 feet of the OHWM; uses and activities located more than 100 feet from the OHWM are permitted.

Primary Use of Building or Structure	Urban Intensity	Port Marine Industrial	Shoreline Residential	Urban Conservancy	Waterfront Recreation	Marine Recreation	Natural	Aquatic ¹
Agriculture								
Agriculture	X	X	X	X	X	X	X	X
Aquaculture								
Restoration and Recovery of Native Populations	P	P	P	P	P	P	P	P
Commercial Aquaculture	C	C	C	C	C	C	X	C
Boating Facilities								
Marinas	P	P	X	X	X	P	X	C
Launch Ramps	P	P	P	P	P	P	X	P
Boathouses & Storage Structures,	P	P	P	P	P	P	X	X
Overwater Covered Moorage	X	X	X	X	X	X	X	X
Commercial								
Water Dependent	P	P	C	X	C	P	X	C
Water Related and Enjoyment	P	P	C	X	C	P	X	X
Non-water Oriented	C	C	X	X	X	C	X	X
Industrial/Light Industrial								
Water Dependent	P	P	X	X	X	C	X	P
Water Related	P	P	X	X	X	C	X	X
Nonwater Oriented	X	X	X	X	X	X	X	X
Recreation								
Water Dependent & Enjoyment, and All Other Water Related, e.g., viewing platforms, wildlife blinds, interpretive areas	P	X	P	P	P	P	C	C
Non-water Oriented	C/P	X	C/P	X	C	X	X	X
Residential								
Residential	P	X	P	P	X	X	X	X

Primary Use of Building or Structure	Urban Intensity	Port Marine Industrial	Shoreline Residential	Urban Conservancy	Waterfront Recreation	Marine Recreation	Natural	Aquatic ¹
Transportation								
Roads/Railroads	C/P	C/P	C/P	C/P	C/P	C/P	C/P	C
Trails and Shared Use Paths	P	P	P	C/P	P	P	C/P	P
Parking	P	P	P	C/P	C/P	P	C/P	X
Utilities								
Utility Lines, Buildings and Facilities	C/P	C/P	C/P	C/P	C/P	C/P	C/P	C
Other								
All Other Uses Not Listed Above	C	C	C	C	C	C	X	C
Mixed Use	C/P	C	C	C	C	C/P	X	X

¹ Uses listed as permitted or conditional in the Aquatic designation are allowed only if not prohibited in the adjacent upland shoreline designation.

Table 6.2 – Development Standards (Heights)

Shoreline Environment	Shoreline Reach	Maximum Standard Building Height
Aquatic	All	20 feet
Natural	All	15 feet
Waterfront Recreation	Budd Inlet	42 feet
	Capitol Lake	35 feet
Urban Conservancy	All	35 feet
Shoreline Residential	All	35 feet
Marine Recreation	Budd Inlet	40 feet; 25 feet within 75 feet of OHWM
Urban Intensity	Budd – 3A*	42 feet to 65 feet*
	Budd 6A & Capitol – 3B	65 feet
	Budd-4 and Budd-5A	35 feet water-ward of streets; 90 feet remainder
Port Marine Industrial	All	65 feet

*Subject to the provisions of the West Bay Drive regulations 18.06.100(A)(2)(C).

Table 6.3 – Setbacks and Incentives

Shoreline Environment	Shoreline Setback	Vegetation Conservation Area	Setback with maximum reduction– Non-water dependent	Incentive eligible provisions – See 18.20.620(D)(1)	Shoreline Setback reduction	Required Standards
Aquatic	N/A	N/A	N/A	N/A	N/A	N/A
Natural	200'	200'	N/A	N/A	N/A	N/A
Urban Conservancy	100'	50'	N/A	N/A	N/A	N/A
Shoreline Residential - Ward Lake	75'	20'	N/A	N/A	N/A	N/A
Shoreline Residential – Ken Lake, Budd Inlet	30'	20'	N/A	N/A	N/A	N/A
Marine Recreation – Budd 5C	75'	30'	50'	Physical Access	7'	See 18.20.620(D)(2)
				Trail	7'	See 18.20.620(D)(3)
				Restoration of vegetation	Up to 7'	See 18.20.620(D)(4)
				Bulkhead Removal >50% frontage	10'	See 18.20.620(D)(5)
				Bulkhead Removal <50% frontage	5'	See 18.20.620(D)(5)
				Replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM.	12.5'	See 18.20.620(D)(6)
Water Dependent Uses Reduce from 75' to 20' or 0'				Water Dependent Use	55' or 100% (75')	See 18.20.620(D)(7)
Waterfront Recreation – Budd 3B	150' or the east side of West Bay Drive whichever is less.	150' or the east side of West Bay Drive whichever is less.	150'	N/A	N/A	N/A

Shoreline Environment	Shoreline Setback	Vegetation Conservation Area	Setback with maximum reduction– Non-water dependent	Incentive eligible provisions – See 18.20.620(D)(1)	Shoreline Setback reduction	Required Standards
Waterfront Recreation – Cap 6	30'	30'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30' to 0'				Water Dependent Use	100% (30')	See 18.20.620(D)(7)
Waterfront Recreation Cap-7 (Marathon Park)	30'	30'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30' to 0'				Water Dependent Use	100% (30')	
Urban Intensity - Budd 3A	30'	30'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30' to 0'				Water Dependent Use	100% (30')	
Urban Intensity - Budd 4	30'	0'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30' to 0'				Water Dependent Use	100% (30')	
Urban Intensity - Budd 5A	30'	0'	30'	N/A	N/A	N/A
Water Dependent Uses Reduce from 30'-0'				Water Dependent Use	100% (30')	
Urban Intensity - Budd 6A	100'	0'	100'	N/A	N/A	N/A
Port Marine Industrial – Budd 5B	0'	0'	0'	N/A	N/A	See 18.20.620(D)(8)

18.20.630 - Agriculture

- A. The creation of new agricultural lands and/or activities is prohibited.
- B. Confinement lots, feeding operations, lot wastes, stockpiles of manure solids and storage of noxious chemicals are prohibited.
- C. Existing agricultural activities shall be allowed to continue subject to:
 - 1. Expansion or modification of existing agricultural uses shall be conducted in a manner that avoids impacts to shoreline ecological functions and processes and shall comply with critical areas regulations set forth in this chapter; and

2. Appropriate farm management techniques shall be used to prevent contamination of nearby water bodies and adverse effects on plant, fish and animal life from the application of fertilizers and pesticides.
- D. Development on agricultural land that does not meet the definition of agricultural activities and the conversion of agricultural land to nonagricultural uses shall be consistent with the environment designation, and general and specific use regulations applicable to the proposed use and not result in a net loss of shoreline ecological functions.

18.20.640 –Aquaculture

- A. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.
- B. Commercial aquaculture shall conform to all applicable state and federal regulations. The City may accept application documentation required by other permitting agencies for new and expanded aquaculture uses and development to minimize redundancy in permit application requirements. Additional studies or information may be required by the City, which may include but is not limited to monitoring and adaptive management plans and information on the presence of and potential impacts to, including ecological and visual impacts, existing shoreline or water conditions and/or uses, vegetation, and overwater structures.
- C. Aquaculture activities and facilities shall be located where they do not adversely impact native eelgrass and microalgae species or other critical saltwater habitats, priority species or species of concern, or habitat for such species as defined in OMC 18.20.120. Aquaculture uses and activities shall observe all upland and aquatic buffers or setbacks required by applicable state or federal regulations. Larger buffers or other protections may be required if supported by relevant resource agencies in coordination with the Administrator. Aquaculture shall not be permitted in areas where it would result in a net loss of shoreline ecological functions, or where adverse impacts to critical saltwater habitats cannot be mitigated according to OMC 18.20.410(B).
- D. Aquaculture for the recovery of native populations is permitted when part of an approved restoration or habitat management plan complying with this Chapter.
- E. In addition to other requirements in this chapter, applications for commercial geoduck aquaculture shall contain all of the items identified in WAC 173-26-241(3)(b)(iv)(F).

18.20.650 - Boating Facilities - General Regulations

- A. Boating facilities which will adversely impact shoreline ecological functions and system-wide processes, especially in highly sensitive areas such as estuaries and other wetlands, forage fish habitat, and other critical saltwater habitats, are prohibited.
- B. Marinas and launch ramps shall be located in areas where there is adequate water mixing and flushing, and shall be designed not to retard or negatively influence flushing characteristics.
- C. Marinas and boat launch ramps shall be located only on stable shorelines where water depths are adequate to avoid the net loss of shoreline ecological functions and processes, and eliminate or minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach feeding and other river, lake, harbor, and channel maintenance activities.
- D. All boating facilities, including marinas and boat yards, shall utilize effective measures to prevent the release of oil, chemicals, or other hazardous materials into the water.

- E. Marinas and boat launches shall provide physical and visual public access. This requirement may be waived by the Administrator if the applicant demonstrates that public access is not feasible in accordance with the provisions of OMC 18.20.450.
- F. Locate boating facilities where parking and access can be provided without causing adverse impacts to adjacent properties.
- G. Restrooms and garbage facilities shall be provided at marinas and boat launching facilities.
- H. Lighting for boating facilities shall be designed to minimize light and glare, especially where it is visible to adjacent properties and properties across the water. Illumination levels shall be the minimum necessary for the intended use. All light fixtures shall be fully shielded and oriented to avoid shining directly on the water and to prevent spillover offsite.
- I. Mooring of boats for extended periods shall comply with applicable state regulations.

18.20.652 – Boat Launch Ramps

- A. Boat launch ramps shall be located, designed, constructed and maintained to reduce impacts to the shoreline. Preferred ramp designs, in order of priority, are:
 - 1. Open grid designs with minimum coverage of beach substrate;
 - 2. Seasonal ramps that can be removed and stored upland; and
 - 3. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to change in beach profile.
- B. Ramps shall be located, constructed and maintained where alterations to the existing foreshore slope can be avoided or minimized.

18.20.654 – Marinas

- A. New marinas are allowed only when they are consistent with Olympia’s Shoreline Program and only when the proponent demonstrates that all of the following conditions are met:
 - 1. The proposed location is the least environmentally damaging alternative. Shallow water embayments, areas of active channel migration where dredging would be required, and areas of intact shoreline ecological functions and processes shall be avoided;
 - 2. To the extent feasible, hard armoring is avoided (see Section C below);
 - 3. Potential adverse impacts on shoreline processes and ecological functions are mitigated to achieve no net loss;
 - 4. The area has adequate water circulation and flushing action, and the marina is designed so that it does not negatively influence flushing characteristics;
 - 5. The proposed location will not require excavation and/or filling of wetlands or stream channels; and
 - 6. Suitable public infrastructure is available, or can be made available by project completion, to support the marina.
- B. Where permitted, marinas shall be designed, constructed and operated as follows:
 - 1. Floating structures shall be designed to prevent grounding on tidelands. Floats shall not rest on the substrate at any time. Stoppers or stub pilings shall be used to keep the bottom of the float at least one foot above the level of the substrate;

2. Piers and other structures shall be located, sized, and designed to minimize shading of nearshore aquatic habitats and impacts to species that use these areas;
 3. Solid structures shall be designed to provide fish passage through and along the shallow water fringe;
 4. Marina development shall be required to provide public access amenities pursuant to OMC 18.20.450, Public Access. The location and design of public access shall be determined based on a given location and the public access needs in the vicinity of the marina. Existing public access shall not be adversely impacted;
 5. Impacts to navigation shall be avoided; where unavoidable, impacts shall be mitigated;
 6. New floating homes and on water residences are prohibited. A floating home permitted or legally established prior to January 1, 2011 and floating on water residences legally established prior to July 1, 2014 will be considered conforming uses. Live-aboard vessels are permitted only if adequate solid waste and sanitary sewer disposal facilities are provided and maintained;
 7. Marinas shall provide restrooms and solid waste receptacles to accommodate marina users, and shall have facilities and established procedures for the collection of solid waste or sewage, other than discharge into the water;
 8. Marinas shall provide pump-out, holding and/or treatment facilities for sewage contained on boats or vessels;
 9. Marina operators shall post all regulations pertaining to handling and disposal of waste, sewage, fuel and oil or toxic materials where they can be easily read by all users;
 10. Marinas shall have facilities and established procedures for the containment and recovery of spilled petroleum or toxic products; and
 11. Marina buildings shall conform to the setbacks established in Table 6.3.
- C. Where allowed, marinas that involve breakwaters shall meet all of the following design criteria:
1. Breakwaters built water-ward in a perpendicular plane to the shoreline shall not be allowed as a continuous one-piece structure;
 2. The toe of the breakwater may not extend water-ward of the Ordinary High Water Mark more than 250 feet from mean higher high water;
 3. Breakwaters shall be built so that the side slopes shall not be steeper than 1-1/2-foot horizontal to 1-foot vertical slope;
 4. The opening between a shore breakwater and an isolated breakwater shall not be less than 20 feet in width as measured at the toe of the slope;
 5. Openings must be maintained at project depth at all times in order to ensure proper circulation and fish passage;
 6. Openings may be either offset or in-line design;
 7. Openings may also be used as navigational channels;
 8. The opening must be sized (depth and/or width) so as to ensure proper circulation inside the marina configuration and exchange with the outside bay. To facilitate this exchange, the volume of the tidal prism (water present between mean low and mean high tide) shall be not less than 50 percent of the total volume of the basin;

9. The depth of the openings shall be at least as deep as the average depth of the marina; and
10. Openings may be baffled to protect the marina against wave action but in no instance should the baffling impede water circulation or fish movement.

18.20.656 – Boat Storage

- A. Boat storage shall be located upland unless:
 1. No suitable upland locations exist for such facilities;
 2. It can be demonstrated that wet moorage would result in fewer impacts to ecological functions and processes; or
 3. It can be demonstrated that wet moorage would enhance public use of the shoreline.
- B. Marinas that provide dry upland storage shall use a launch mechanism that protects shoreline ecological functions and processes and minimizes use of shoreline areas.
- C. Dry moorage and other storage areas shall be located away from the shoreline and be landscaped with native vegetation to provide a visual buffer for adjoining dissimilar uses or scenic areas.
- D. Boat Houses/Boat Storage Buildings above and landward of the Ordinary High Water Mark are permitted, and must comply with all the following:
 1. A view corridor of not less than 35 percent of the width of the property shall be maintained between the abutting street and waterway;
 2. The structure does not exceed the maximum height set forth on Table 6.2; and
 3. The structure shall be visually compatible with the surrounding environment.

18.20.658 – Covered Moorage

- A. New overwater covered moorage and the expansion of existing covered moorage is prohibited.

18.20.660 Commercial Use and Development – General

- A. The construction of new and the expansion of existing overwater commercial buildings is prohibited, except construction or expansion for an authorized water dependent commercial use.
- B. Public access shall be provided for all commercial use and development pursuant to OMC 18.20.450.
- C. Vegetation conservation areas, as required per Table 6.3, shall be provided and planted pursuant to the provisions in Section 18.20.492.
- D. Commercial development shall not impact the rights of navigation.
- E. Home occupations are not considered to be commercial uses.

18.20.663 - Water-Oriented Commercial Use and Development

- A. Water-oriented commercial use and development shall demonstrate that:
 1. There will be no net loss of shoreline ecological functions or processes;
 2. There will be no significant adverse impact on other shoreline uses, resources and/or values such as navigation, recreation, public access, and design compatibility; and
 3. The design, layout, and operation of the use or development meet the definition of water-oriented uses.

18.20.667- Non-Water-Oriented Commercial Use and Development

Non-water-oriented uses may be allowed only if they are part of a mixed use development that include water-oriented uses, provide public access, and shoreline enhancement/restoration. The applicant shall demonstrate that the project will result in no net loss to shoreline ecological functions or processes. In areas zoned for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or right-of-way.

18.20.670 - Industrial Development

- A. Water-dependent or water-related industrial development shall be permitted when the applicant demonstrates that:
 - 1. It will not cause a net loss of shoreline ecological functions or processes;
 - 2. It will not have significant adverse impacts on other shoreline uses, resources and/or values such as navigation, recreation and public access; and
 - 3. The design, layout, and operation of the use or development meet the definition of water-dependent or water-related uses.
- B. The construction of new non-water oriented industrial uses is prohibited. The expansion of existing non-water-related or non-water dependent industrial uses shall require a Shoreline Conditional Use Permit in accordance with OMC 18.20.250(A). Any setback area may be used for additional public access or shoreline restoration.
- C. Cooperative use of docking, parking, cargo handling and storage facilities on industrial properties shall be provided where feasible.
- D. Design port facilities to permit viewing of harbor areas from viewpoints, waterfront restaurants, and similar public facilities which would not interfere with port operations or endanger public health or safety.
- E. Industrial use or development shall be located and designed to minimize the need for initial or recurrent dredging, filling or other harbor and channel maintenance activities.
- F. Industrial use or development shall include the capability to contain and clean-up spills, leaks, discharges, or pollutants, and shall be responsible for any water or sediment pollution they cause.
- G. Water storage and handling of logs shall be limited to the marine shoreline and shall be subject to the following standards:
 - 1. Permits shall contain provisions for the cleanup of log dumping and rafting areas, and disposal of solid wastes;
 - 2. Bark and wood debris controls, together with collection and disposal facilities, must be employed at log dumps, raft building areas, and mill handling areas; and
 - 3. Permits for 'free-fall' dumping of logs shall not be issued unless the applicant can demonstrate that this method will create fewer adverse impacts than the 'gradual' method. The use of log bundling and other devices shall be used to reduce adverse impacts.
- H. Dry-land storage of logs shall be limited to the marine shoreline and shall be subject to the following standards:
 - 1. Unpaved storage areas underlain by permeable soils shall have at least a four (4) foot separation between the ground surface and the winter water table; and

2. Dikes, drains, vegetative buffer strips or other means shall be used to ensure that surface runoff is collected and discharged in a manner least detrimental to water quality from the storage area. The applicant shall demonstrate that water quality standards or criteria will not be violated by such runoff discharge under any conditions of flow in nearby water sources.
- I. Sites for the storage and/or distribution of natural resource materials (e.g., rock, sand, and gravel) shall be located, designed and operated in accordance with the provisions of Olympia's Shoreline Program. Loading areas at the water's edge shall be the minimum necessary and shall include measures to reduce erosion of the shoreline, damage to vegetation, and impacts to water quality.
- J. The construction of new, or the expansion of existing, overwater industrial buildings is prohibited, except construction or expansion for an authorized water-dependent industrial use.

18.20.680 - Recreation

- A. Water-oriented recreation uses and development are preferred shoreline uses and shall be allowed when the applicant demonstrates that they:
 1. Will not cause a net loss of shoreline ecological functions or processes; and
 2. Will not have significant adverse impacts on other shoreline uses, resources and/or values such as navigation and public access.
- B. Park and recreation facilities may be used for events and temporary uses when the proposed use will not damage the shoreline. Structures associated with such uses shall be located as far landward as feasible and shall be removed immediately after the event is over. Shoreline areas shall be returned to pre-event conditions.
- C. Recreational use and development shall include appropriate mitigation to minimize light and noise impacts on adjoining properties. Such measures shall include, but not be limited to, fencing, vegetative screening, increased setbacks, limited hours of operation, and other appropriate measures. Where lighting is used, the illumination levels shall be the minimum needed for the intended use. Lighting must be shielded to avoid light and glare on the water and to prevent spillover offsite.
- D. The construction of new trails or the expansion of existing trails shall be subject to the mitigation sequencing process and shall be designed to minimize impacts to the ecological functions of the shoreline while providing access and waterfront enjoyment to the public.
- E. All commercial recreation facilities shall conform to this section and OMC sections 18.20.660, 18.20.663, and 18.20.667.
- F. Recreational facilities shall be located, designed and operated in a manner consistent with the purpose of the environment designation in which they are located.

18.20.690 - Residential Use and Development

- A. New residential development, including additions to existing structures, shall meet the development standards set forth on Tables 6.2 and 6.3 particularly and this title in general.
- B. Residential development shall be designed to:
 1. Maintain or improve ecological functions and processes;
 2. Preserve and enhance native shoreline vegetation; or if vegetation is degraded or none is present, restore or enhance in accordance with the provisions of OMC 18.20.492;

3. Control erosion and impacts to slope stability;
 4. Avoid the use of shoreline armoring at the time of construction and in the future;
 5. Preserve shoreline aesthetic character; and
 6. Minimize structural obstructions to normal public use and views of the shoreline and the water.
- C. A small waterfront deck or patio can be placed along the shoreline provided:
1. The waterfront deck or patio and associated access path, covers less than 25 percent of the VCA and native vegetation covers a minimum of 75 percent of the VCA;
 2. Within 25 feet of the Ordinary High Water Mark, for every one square foot of waterfront deck or patio in the VCA, three square feet of vegetation shall be provided in the VCA;
 3. The total area of the waterfront deck or patio shall not exceed 400 square feet;
 4. Pervious materials are used;
 5. The deck or patio is setback a minimum of five feet from the Ordinary High Water Mark; and
 6. The upper surface of the deck or patio is no more than two feet above grade and is not covered.
- D. Overwater residential development shall be prohibited. This provision shall not apply to live-aboard vessels expressly approved as part of a marina.
- E. New residential development of more than nine lots or units shall provide public access for use by residents of the development and the general public. Public access shall be located, designed and managed in accordance with the provisions of OMC 18.20.450.
- F. To preserve views of the water, fences shall not be allowed within Vegetation Conservation Areas. Fences within the shoreline setback area are permitted provided they do not exceed 48 inches in height.
- G. When two or more undeveloped single-family legal building sites are contiguous within shorelines, only a single joint-use dock with a common access easement is permitted for use by those two or more residential units.
- H. For new multi-unit residential developments, only one single joint-use dock shall be allowed for the entire development.
- I. Plats and subdivisions shall be designed, configured and developed in a manner that assures no net loss of shoreline ecological functions will occur as a result of full build out of all lots and in a manner that prevents the need for new shoreline stabilization or flood hazard reduction measures.

18.20.700 - Transportation and Trail Facilities

- A. The following provisions apply to trail, road and railroad expansions:
1. The improvements shall be located as far landward as feasible;
 2. The construction shall be designed to protect the adjacent shorelands against erosion, uncontrolled or polluting drainage, and other factors detrimental to the environment both during and after construction;
 3. The proposed width shall be the minimum necessary for the proposed improvements;
 4. The project shall be planned to fit the existing topography as much as feasible, thus minimizing alterations to the natural environment;

5. Streams or natural drainage ways within the road corridor shall be protected, and fish passage shall not be impaired;
 6. All debris, overburden and other waste materials from construction shall be disposed of to prevent their entry into the adjoining water body;
 7. The location and design of roadway expansions shall not compromise existing and planned shoreline public access or compromise existing and planned habitat restoration or enhancement projects; and
 8. The project shall not result in the net loss of shoreline ecological functions or processes.
- B. Transportation facilities shall be designed to cross shoreline areas by the shortest, most direct route feasible.
 - C. Access roads and/or drive lanes serving shoreline parcels shall be the minimum width necessary.
 - D. Bridges may be permitted within sensitive fish and wildlife habitat only if the following conditions are met:
 1. An alternative alignment is not feasible;
 2. The project is located or designed to minimize its impacts on the environment;
 3. Adverse impacts are mitigated to achieve no net loss of shoreline ecological functions and system-wide processes;
 4. Open-piling and piers required to construct the bridge may be placed water-ward of the Ordinary High Water Mark if no alternative method is feasible; and
 5. All other applicable provisions of this chapter and Chapter 18.32, Critical Areas, are met.
 - E. Trails and shared use paths are considered transportation facilities and are allowed within the shoreline setback, vegetation buffer, and overwater. As such, they are subject to the provisions herein including OMC 18.20.410(B). Where feasible new public trails and shared use paths shall use abandoned rail corridors to minimize disturbance of the shoreline.

18.20.710 - Utilities

- A. Utility facilities and lines shall be designed and located to avoid net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with existing and planned land and shoreline uses.
- B. New public or private utilities, including both lines and associated facilities, shall be located as far landward of the Ordinary High Water Mark as feasible, preferably outside of the shoreline jurisdiction, and be located at least 30 feet landward of the OHWM, unless:
 1. The utility requires a location adjacent to the water, such as a stormwater outfall; or
 2. Alternative locations are infeasible; or
 3. Utilities are serving uses and activities permitted by this chapter.
- C. Onsite utilities serving a primary use, such as a water, sewer, communication, electric, or gas line to a residence, are accessory utilities and shall be considered part of the primary use.
- D. Utilities that need water crossings shall be placed deep enough to avoid the need for bank stabilization and stream/riverbed filling both during construction and in the future due to flooding

and bank erosion that may occur over time. Boring, rather than open trenches, is the preferred method of utility water crossings.

- E. Where no other options exist, in-water utility corridors may be allowed provided the corridor is located and designed to minimize impacts to shoreline ecology and processes, and adverse impacts are mitigated.
- F. When feasible, utility lines shall use existing rights-of-way, corridors and/or bridge crossings and shall avoid duplication and construction of new parallel corridors in all shoreline areas.
- G. Utility facilities shall be constructed using techniques that minimize the need for shoreline fill.
- H. New utility installations shall be planned, designed and located to eliminate the need for structural shoreline armoring or flood hazard reduction measures.
- I. Vegetation clearing during utility installation and maintenance shall be minimized, and disturbed areas shall be restored or enhanced following project completion.
- J. Pipes that outfall directly into the water shall be designed and located to minimize adverse impacts on shoreline ecological functions and processes.
- K. Utility corridors shall be located and designed to protect scenic views. Where feasible, utilities shall be placed underground or alongside or under bridges, unless doing so would cause greater ecological impact or harm.
- L. Stormwater facilities are prohibited where alternatives are feasible. Any stormwater facility located within a minimum width vegetation conservation area shall be landscaped consistent with 'VCA' requirements.
- M. To the greatest extent feasible, new utility systems shall be co-located with other existing or planned utilities, roadways and/or railways and/or placed within already-disturbed corridors whenever feasible.

18.20.800 - Shoreline Modifications – General Provisions

- A. Shoreline modifications are structures or actions that permanently change the physical configuration or quality of the shoreline, particularly at the point where land and water meet. Shoreline modifications include, but are not limited to structures such as dikes, breakwaters, piers, docks, weirs, dredge basins, fill, bulkheads, or other actions such as clearing, grading, application of chemicals, or vegetation removal. Generally, shoreline modifications are undertaken to prepare for a shoreline use, support an upland use, or to provide stabilization or defense from erosion.
- B. Proposals for shoreline modifications are to be reviewed for compliance with the applicable use policies and regulations in OMC 18.20.600 through 18.20.710 and the applicable shoreline modification regulations of this chapter. Deviations from the minimum development standards may only be approved under a shoreline variance unless specifically stated otherwise. Shoreline modifications listed as prohibited are not eligible for consideration as a shoreline variance.
- C. Only shoreline modifications that support or protect an allowed primary structure or a legally existing shoreline use are allowed. All others are prohibited.
- D. Shoreline modifications shall not result in the loss of shoreline ecological functions or ecosystem wide processes. All proposals for shoreline modifications shall take measures to avoid or reduce ecological impacts in accordance with the mitigation sequencing priorities set forth in OMC 18.20.410(B).

- E. Shoreline modifications individually and cumulatively shall not result in a net loss of shoreline ecological functions and ecosystem-wide processes. This shall be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impact resulting from said modifications.
- F. Shoreline modifications shall comply with critical area and vegetation conservation standards in this chapter.
- G. New structural flood hazard reduction measures shall only be allowed when a geotechnical analysis demonstrates that they are necessary to protect existing development, that nonstructural measures or other protection alternatives are not feasible, and that impacts to ecological functions and priority habitats and species can be successfully mitigated so as to assure no net loss.
- H. New structural flood hazard reduction measures shall be placed landward of associated wetlands and designated Vegetation Conservation Areas, except for actions that increase ecological functions.
- I. New public structural flood hazard reduction measures shall dedicate and improve public access pathways except when public access would cause unavoidable safety or health hazards to the public, unavoidable security or use conflicts, ecological impacts that cannot be avoided or mitigated, or disproportionate and unreasonable cost.

18.20.810 - Permitted Shoreline Modifications

Shoreline modifications may be allowed by shoreline environment designation as listed in Table 7.1. Aquatic environment provisions are based on the adjacent environment designation, including permitted with a Shoreline Substantial Development Permit or exemption (P), Shoreline Conditional Use permit (C), or prohibited outright (X). This table shall be used in conjunction with the written provisions for each use. Column notes provide additional clarification and identify other applicable City regulations.

Table 7.1 – Shoreline Modifications

P – Permitted C – Conditional Use X – Prohibited X/C – Allowed by conditional use only in specific cases.	Natural	All other Shoreline Environments	Aquatic (Same as adjacent shoreline environment designation)	Notes & Applicable Regulations
Dredging	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.820
Fill	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.830 through 837
Piers, Docks, Floats and Buoys	X	P	←	See OMC 18.20.842 through 18.20.848
Ecological Restoration and Enhancement	P	P	←	See OMC 18.20.850 through 18.20.855
Instream Structures	P	P	←	See OMC 18.20.857
Shoreline Stabilization Hard Armoring	X	X/C See OMC 18.20.870	←	See OMC 18.20.860 through 18.20.870
Shoreline Stabilization Soft Armoring	P	P	←	See OMC 18.20.860 through 18.20.870
Breakwaters, Jetties, Groins, and Weirs	X	X/C See OMC 18.20.874	←	See OMC 18.20.872 through 18.20.874
Stair Towers	X	X	←	Prohibited

18.20.820 - Dredging

- A. New development shall be located and designed to avoid or, if avoidance is not feasible, to minimize the need for new dredging and maintenance dredging. Where permitted, dredging shall be limited to the minimum necessary for the proposed use.
- B. Dredging is permitted for the following activities (see Table 7.1 for permit type):
 - 1. In conjunction with a water-dependent use;
 - 2. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist;
 - 3. Maintenance of irrigation reservoirs, drains, canals or ditches for agricultural and stormwater purposes;
 - 4. Establishing, expanding, relocating or reconfiguring navigation channels and basins where necessary to assure safe and efficient accommodation of existing navigational uses;
 - 5. Maintenance dredging of established navigation channels and basins is restricted to maintaining previously dredged and/or existing authorized location, depth and width. Dredging in Capitol Lake may be authorized upon approval of a management plan by agencies with jurisdiction;
 - 6. Restoration or enhancement of shoreline ecological processes and functions benefiting water quality and/or fish and wildlife habitat;
 - 7. Public access and public water-oriented recreational development and uses, including the construction of piers, docks, and swimming beaches for public use; or
 - 8. Trenching to allow the installation of necessary underground pipes or cables if no alternative, including boring, is feasible, and:
 - a. Impacts to fish and wildlife habitat are avoided to the maximum extent feasible;
 - b. The utility installation does not increase or decrease the natural rate, extent or opportunity of channel migration; and
 - c. Appropriate best management practices are employed to prevent water quality impacts or other environmental degradation.
- C. Dredging is prohibited in the Natural shoreline environment designation and in Aquatic designated areas adjacent to shorelands with the Natural designation except where associated with ecological restoration projects.
- D. Dredging and dredge disposal is prohibited on or in archaeological sites that are listed on the Washington State Register of Historic Places until such time that they have been released by the State Archaeologist.
- E. Dredging for the primary purpose of obtaining material for landfill is prohibited.
- F. The disposal of dredge spoils in open water or on upland sites within shoreline jurisdiction is prohibited unless for beneficial uses such as shoreline restoration or enhancement.
- G. Prohibit any dredging which will damage shallow water habitat used by fish species for migration corridors, rearing, feeding and refuge, unless the project proponent demonstrates that all of the following conditions are met:
 - 1. An alternative alignment or location is not feasible;

2. The project is designed to minimize its impact on the environment; and
 3. The facility is in the public interest.
- H. If the project creates significant unavoidable adverse impacts, the impacts shall be mitigated by creating in-kind habitat near the project. Where in-kind replacement mitigation is not feasible, rehabilitating degraded habitat may be required. Mitigation shall be in accordance with the mitigation priorities set forth in OMC 18.20.410(B).

18.20.830 - Fill

Fill is the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area water-ward of the Ordinary High Water Mark, in wetlands or other critical areas, or on shorelands in a manner that raises the elevation or creates land above the elevation of the Ordinary High Water Mark. Any fill activity conducted within the shoreline jurisdiction must comply with the following provisions.

18.20.833 - Shoreland Fill

- A. Fill shall be the minimum necessary to accommodate the proposed use or development or protect it from flooding, and allowed only in conjunction with approved shoreline use and development activities that are consistent with Olympia's Shoreline Program.
- B. Fill shall be permitted only when it can be demonstrated that the proposed action will not:
 1. Result in significant damage to water quality, fish, shellfish, and wildlife habitat;
 2. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities; or
 3. Alter channel migration, geomorphic, or hydrologic processes.
- C. Except for beach feeding, fill shall be designed, constructed, and maintained to prevent, minimize and control all material movement, erosion, and sedimentation from the affected area.
- D. Fill for the construction of transportation facilities is allowed only when there is a demonstrated purpose and need, there are no feasible alternatives, and impacts are mitigated in accordance with mitigation priorities in OMC 18.20.410(B).
- E. Fill shall not be used as a means to increase the allowable building height by increasing the natural or finished grade, except as authorized to meet the flood elevation requirements of OMC Chapter 16.70.
- F. Fill for the sole purpose of creating land area is prohibited.
- G. The excavation of beach material for fill is prohibited.
- H. Fill within critical areas and/or critical area buffers shall comply with this chapter and the critical areas provisions of Chapter 18.32.
- I. Perimeters of fill shall be designed to eliminate the potential for erosion and be natural in appearance. Perimeter slopes shall not exceed 1 foot vertical for every 3 feet horizontal unless an engineering analysis has been provided, and the Administrator determines that the landfill blends with existing topography.
- J. Fill shall consist of clean material including sand, gravel, soil, rock or similar material approved by the City. The use of contaminated material or construction debris is prohibited.

- K. Fill shall not be located where shoreline stabilization will be necessary to protect materials placed or removed. Disturbed areas shall be immediately stabilized and revegetated to avoid erosion and sedimentation.
- L. Fill within the shoreline jurisdiction shall be allowed in response to increases in sea level subject to all other provisions of this Master Program and the mitigation sequencing process.

18.20.837 – Fill Water-ward of Ordinary High Water Mark

- A. Fill water-ward of the Ordinary High Water Mark shall be permitted for the following purposes only, with due consideration given to specific site conditions and only as part of an approved use or development:
 1. Port development for water dependent uses where other upland alternatives or structural solutions, including pile or pier supports is infeasible;
 2. Expansion or alteration of transportation facilities where there are no feasible upland alternatives;
 3. Ecological restoration or enhancement such as beach nourishment, habitat creation, or mitigation when consistent with an approved restoration or mitigation plan;
 4. Disposal of dredge material in accordance with the Dredge Material Management Program (DMMP) of the Department of Natural Resources;
 5. Construction of protective berms or other structures to prevent the inundation of water resulting from sea level rise shall be allowed subject to all other provisions of this Master Program and the mitigation sequencing process when there are no other feasible options to protect existing development;
 6. Public access; or
 7. Cleanup of contaminated sites.
- B. Fill shall be the minimum necessary for the intended use or activity.

18.20.840 General Moorage (Piers, Docks, Floats, and Buoys) Provisions

- A. All new or modified structures shall be allowed only in support of an allowed water-dependent or public access use and must comply with all applicable local, state and federal regulations.
- B. New docks, piers and floats shall be located, designed and constructed in accordance with the mitigation sequencing priorities in OMC 18.20.410(B).
- C. Moorage shall be designed and located so as not to constitute a hazard to navigation or other public uses of the water. Docks, piers and floats are prohibited on lakes or marine water bodies where the distance to the opposite shore is 150 feet or less.
- D. The length, width and height of piers, docks and floats shall be no greater than that required for safety and practicality of the intended use. They shall be spaced and oriented in a manner that avoids shading of substrate below and do not create a 'wall' effect that would impair wave patterns, currents, littoral drift or movement of aquatic life forms.
- E. Those projects which are found to block littoral drift or cause new erosion of down-drift shoreline shall be required to establish and maintain an adequate long-term beach feeding program. This may

include artificially transporting sand to the down-drift side of an inlet with jetties; or artificial beach feeding in the case of breakwaters, groins, and weirs.

- F. All piers, docks, floats or similar structures shall float at all times on the surface of the water or shall be of fixed pile construction. Floating structures shall at no time be grounded on the substrate.
- G. All moorage facilities shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe structures shall be removed or promptly repaired by the owner.
- H. Docks, piers and floats shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long-term. Materials for any portions of the structure that come in contact with the water shall be approved by the appropriate state agency.
- I. Lighting associated with moorage facilities shall be beamed, hooded, or directed to avoid glare on adjacent properties or water bodies. Illumination levels shall be the minimum necessary for safety. Artificial night time lighting shall be the minimum necessary for public safety.
- J. New overwater covered moorage is prohibited.
- K. The design, construction and maintenance of piers and docks shall not restrict any public access or ability to walk along the shoreline. If unavoidable, alternate means of access, such as stairs and/or upland pathways, shall be provided.
- L. Any expansion, alteration, or modification of any moorage structure which results in any increase in horizontal area of the facility shall conform to all requirements of this chapter.

18.20.842 – Moorage Buoys

- A. Moorage buoys shall use neutral buoyancy rope, mid-line float, helical anchors, or other state approved designs that have minimal adverse effects on aquatic ecosystems.
- B. In marine waters, moorage buoys shall not be located water-ward of the outer harbor line or within designated navigation channels where established by the Washington Department of Natural Resources or the U.S. Coast Guard.
- C. Only one moorage buoy shall be allowed per waterfront lot except that a shoreline variance may be sought for additional buoys for public waterfront parks or residential subdivisions where individual lots do not front on the shoreline.
- D. In lakes, moorage buoys shall not be located farther water-ward than existing buoys, or established swimming areas, and shall not interfere with navigation or use of the water.
- E. Moorage buoys must be discernible under normal daylight conditions at a minimum distance of 300 feet and must have reflectors for nighttime visibility.

18.20.844 – Residential Docks, Piers or Floats

- A. Shared residential moorage is required unless the applicant demonstrates why shared moorage is not feasible prior to approval of a residential pier, dock, or float. Considerations include but are not limited to proximity to other docks and willingness of adjoining property owners to participate in shared moorage.
- B. Where moorage is proposed for new subdivisions of more than two lots, or new multi-family development of more than two dwelling units, moorage shall be shared between lots or units.
- C. Shared moorage proposed for lease to five or more upland property owners shall be reviewed as a marina in accordance with the provisions of OMC 18.20.654.

- D. Where individual moorage is allowed, only one type of moorage facility shall be allowed per waterfront lot. The use of residential boat lifts is permitted.
- E. A new joint use pier, dock, or float may be permitted on a community recreation lot shared by a number of waterfront or upland lots. Individual recreational floats (not for moorage) are permitted as long as they are not located farther water-ward than existing floats or established swimming areas.
- F. If moorage is anticipated after initial residential development (including plats, multi-family developments, and mixed use developments), the applicant shall specifically identify and reserve an area for the future moorage.
- G. All docks, piers, and floats shall be painted, marked with reflectors, or otherwise identified so that they are visible during day or night.
- H. Placing fill water-ward of the Ordinary High Water Mark for purposes of constructing a dock or pier is prohibited.

18.20.846 - Marine Docks and Piers

- A. In marine waters, the maximum length of new or expanded piers or docks for private or recreational use shall not exceed 100 feet as measured from the mean higher-high water mark and not exceed a depth of -3 feet as measured from mean lower low water mark. If this is not sufficient depth to reach the desired depth for moorage, a buoy shall be used.
- B. The location, design and construction of new or repaired private or recreational piers or docks in marine waters shall comply with all applicable state and federal regulations and the following standards:
 - 1. Docks and piers shall be set back from the side property line twenty (20) feet on marine waters, unless designated for shared use between adjacent property owners;
 - 2. Residential piers shall not exceed 4 feet in width and must incorporate a minimum of 60 percent grating or the percentage required in a Hydraulic Permit Approval (HPA) from the Department of Fish and Wildlife;
 - 3. The width of ramps connecting the pier and dock shall not exceed 4 feet in width and shall consist of a 100 percent grated surface;
 - 4. Docks shall not rest on the tidal substrate at any time. Stoppers on the pilings anchoring the dock or stub pilings shall be installed so that the bottom of the dock's flotation is a minimum of 1 foot above the level of the beach substrate;
 - 5. If a dock is positioned perpendicular to the ramp, a small dock may be installed to accommodate the movement of the ramp due to tidal fluctuations. The dimensions of the small dock shall not exceed 6 feet in width and 10 feet in length;
 - 6. New or modified residential piers and docks as well as watercraft operation and moorage shall be located to avoid physical impacts to aquatic habitat. At a minimum pier and dock proposals shall ensure that structures are designed and located to protect critical saltwater habitat, and saltwater habitats of special concern as defined by the Department of Fish and Wildlife in WAC 220-660-310;
 - 7. Construction materials shall not include wood treated with creosote, pentachlorophenol or other similarly toxic materials.

- C. There is no maximum length and width for commercial or industrial piers or docks; however, such piers and docks may not exceed the minimum size necessary for the intended use. The applicant must demonstrate that the proposed size and configuration is the minimum necessary and complies with all other provisions of this chapter.
- D. Docks, piers, floats and mooring buoys shall not intrude into or over critical saltwater habitats except when the following conditions are met and documented:
 - 1. Avoidance by an alternative alignment or location is not feasible.
 - 2. Including any required mitigation, the project shall not result in a net loss of ecological functions associated with critical saltwater habitat.
 - 3. For public or commercial docks, the public's need for such a structure must be clearly demonstrated.
 - 4. All over-water and near shore developments in marine waters shall conduct an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. Project-specific inventory and survey work shall follow scientifically accepted survey protocols and take place during the appropriate time of the year depending on species present, based on input from resource agencies.

18.20.847 - Fresh Water Docks and Piers

- A. In fresh water, the length of new or expanded piers or docks for private or recreational use shall not exceed fifty (50) feet as measured from the Ordinary High Water Mark.
- B. The location, design, and construction of new or repaired private or recreational piers or docks in fresh waters shall comply with all applicable state and federal regulations and the following standards:
 - 1. Only piers or ramps can be located within the first thirty (30) feet water-ward of the Ordinary High Water Mark;
 - 2. Pier and dock surface coverage shall not exceed the following:
 - a. 480 square feet for single use structures;
 - b. 700 square feet for two-party joint use; and
 - c. 1,000 square feet for residential pier/docks serving three or more residences.
 - 3. Docks and piers shall not exceed four feet in width, except an additional two (2) feet of width can be allowed without a variance for a property owner with a condition that qualifies for state disability accommodation. Sixty (60) percent of the dock/pier surface area must be grated or the percentage required in a Hydraulic Permit Approval (HPA) from the Department of Fish and Wildlife;
 - 4. Docks shall not rest on the fresh water substrate at any time. Stoppers on the pilings anchoring the dock or stub pilings shall be installed so that the bottom of the dock's flotation is a minimum of one foot above the level of the beach substrate;
 - 5. Except for docks with floats, the bottom of all structures shall be a minimum of one and one-half feet above the water level established by the Ordinary High Water Mark;
 - 6. Floats or ells shall be oriented and grated at the percentage as required in a Hydraulic Permit Approval (HPA) from the Department of Fish and Wildlife.

7. Construction materials shall be limited to untreated wood, approved plastic composites, concrete, or steel.
- C. Docks and piers shall be setback from the side property line ten (10) feet on fresh water.
 - D. The required side yard setbacks may be waived with a shared use moorage facility for two or more property owners. The applicant or proponents shall file with the Thurston County Auditor a legally enforceable joint use agreement or other legal instrument that addresses the following as a condition of permit approval:
 1. Apportionment of construction and maintenance expenses;
 2. Maintenance responsibilities for the facility and associated upland area in perpetuity by identified responsible parties;
 3. Easements and liability agreements;
 4. Use restrictions; and
 5. The easement must acknowledge that each property owner is giving up the right to construct a separate single-family pier.

18.20.848 – Float Standards

- A. Single property owner recreational floats shall not exceed 64 square feet. Multiple property owner recreational floats shall not exceed 96 square feet.
- B. The standards for private recreational floats are as follows:
 1. Floats anchored offshore and used for residential recreational uses shall comply with the following standards:
 - a. Applicants shall contact the Washington Department of Natural Resources to inquire on the need for an aquatic lease for locating recreational floats within state aquatic areas; and
 - b. When feasible floats shall be removed seasonally and placed in an appropriate unvegetated upland location.
 2. Floats shall be located as close to shore as feasible without interfering with natural beach processes or negatively affecting aquatic vegetation.
 3. Floats shall not rest on the substrate at any time. In marine waters, floats shall be located (anchored) at sufficient depth to maintain a minimum of one foot of draft between the float and the beach substrate at low tide.
- C. Public recreational floats shall be the minimum size and dimensions necessary for the intended use, e.g., boat moorage, swimming area, public access. In no case shall a single float exceed 200 square feet.
- D. Public and private recreational floats shall comply with the following standards:
 1. Floats shall be oriented and incorporate functional grating into the float surface area at a percentage as required in a Hydraulic Permit Approval (HPA) from the Department of Fish and Wildlife.
 2. For recreational floats anchored utilizing an embedded anchor; anchor lines shall not rest on or disturb the substrate at any time.

- E. Recreation floats must be discernible under normal daylight conditions at a minimum of 100 yards and must have reflectors for nighttime visibility.
- F. Only one recreational float shall be allowed per waterfront lot except that a shoreline variance may be sought for additional floats for public waterfront parks or residential subdivisions where individual lots do not front on the shoreline.

18.20.850 – Shoreline Restoration and Enhancement – Intent

Restoration is 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 original or pre-European settlement conditions.

Enhancement includes actions performed within an existing degraded shoreline, critical area and/or buffer to intentionally increase or augment one or more functions or values of the existing area. Enhancement actions include, but are not limited to, increasing plant diversity and cover, increasing wildlife habitat and structural complexity (snags, woody debris), installing environmentally compatible erosion controls, or removing non-indigenous plant or animal species.

18.20.855 – Shoreline Restoration and Enhancement - General Provisions

- A. Restoration and enhancement shall be allowed on all shorelines, and carried out by the applicant/proponent in accordance with an approved restoration/enhancement plan. Such plans shall be designed, constructed and maintained in accordance with the policies and regulations of Olympia’s Shoreline Program. Restoration and enhancement projects restore the natural character and ecological functions of the shoreline; and must be consistent with the implementation of a comprehensive restoration plan approved by the City and/or Department of Ecology, or the Administrator must find that the project provides an ecological benefit and is consistent with Olympia’s Shoreline Program.
- B. The City shall coordinate with other local, state, and federal regulatory agencies, tribes, and non-government organizations to ensure that mitigation actions are likely to be successful and achieve beneficial ecological outcomes.
- C. Shoreline property owners that remove hard-armoring or otherwise restore the shoreline prior to development may apply such restoration toward any mitigation required at the time of development provided that:
 - 1. The applicant/property owner can provide conclusive evidence of the pre- and post-restoration conditions using photographs, reports, plans, affidavits, or similar evidence;
 - 2. The City can confirm via site inspection, photographs, affidavits or other evidence that the restoration actions have improved shoreline conditions;
 - 3. The work has occurred on the same site within five years of the proposed development; and
 - 4. The applicant/property owner provides assurances that the restoration area will be preserved in perpetuity. Such assurance can be in the form of a notice on title, conservation easement, or similar mechanism.
- D. Shoreline restoration and enhancement may be permitted if the applicant demonstrates that no significant change to sediment transport will result and that the restoration or enhancement will not adversely affect shoreline ecological processes, water quality, properties, or habitat.

- E. Shoreline restoration and enhancement projects shall use best available science and management practices.
- F. Restoration shall be carried out in accordance with an approved shoreline restoration plan and in accordance with the policies and regulations of Olympia's Shoreline Program.
- G. Restoration and enhancement projects shall be designed to minimize maintenance over time.
- H. Restoration and enhancement projects shall be designed, constructed, and maintained to avoid the use of shoreline stabilization measures. Where such measures cannot be avoided, bioengineering shall be used rather than bulkheads or other stabilization measures, unless it can be demonstrated that there are no feasible options to achieve the intended result. Restoration and enhancement projects that include shoreline modification actions shall be authorized provided the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.
- I. Restoration and enhancement projects shall not extend water-ward more than the minimum necessary to achieve the intended result and shall not result in the creation of additional upland area.
- J. In accordance with RCW 90.58.580, a Substantial Development Permit is not required for development on land that is brought under shoreline jurisdiction due to a shoreline restoration project. However, projects are still required to comply with the regulations of this Master Plan.
- K. Projects taking place on lands that are brought into shoreline jurisdiction due to a shoreline restoration project that caused a landward shift of the OHWM may apply to the Administrator for relief from the SMP development standards and use regulations under the provisions of RCW 90.58.580. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of the Department of Ecology.

18.20.857 – Instream Structures

Instream structures are permitted only when necessary for a restoration or enhancement project, to improve fish passage, or for permitted transportation or utility crossings and subject to the following requirements:

- A. Instream projects shall be evaluated for their potential adverse impacts upon the physical, hydrological, and biological characteristics as well as effects on instream/riparian habitat;
- B. Instream structures and associated facilities shall be designed, constructed and maintained in a manner that will not degrade the quality of affected waters or instream/riparian habitat value, and minimizes adverse impacts to surrounding areas;
- C. The location and design of instream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species;
- D. Instream structures shall be designed based on an analysis of the reach or reaches to avoid the need for structural shoreline armoring; and
- E. Instream structures and associated facilities shall provide for the protection and preservation of natural and cultural resources including but not limited to, sensitive areas such as wetlands, waterfalls, erosion/accretion shore forms, and natural scenic vistas.

18.20.860 - Shoreline Stabilization - Intent

Shoreline stabilization includes actions taken to address erosion impacts to property, dwellings, businesses, or structures caused by natural processes such as current, flood, tides, wind, or wave action.

These include structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of the structure to be protected, erosion and groundwater management, and planning and regulatory measures to avoid the need for structural stabilization. Structural methods include 'hard' and 'soft' measures, defined as:

- A. Hard structural shoreline stabilization (also referred to as 'hard' armoring) means erosion control measures using hardened structures that armor and stabilize the shoreline from further erosion. Examples of hard armoring include concrete, boulders, dimensional lumber or other materials to construct linear, sometimes vertical, faces. These include bulkhead, rip-rap, groins, revetments, and similar structures.
- B. Soft structural shoreline stabilization (also referred to as 'soft' armoring) means erosion control practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Examples of soft armoring include a mix of gravel, cobbles, boulders, logs and native vegetation placed to provide stability in a non-linear, sloping arrangement.

18.20.862 – Shoreline Stabilization - New Development

- A. New shoreline use and development including new lots shall be located and designed to eliminate the need for concurrent or future shoreline stabilization to the extent feasible. Lots created through subdivision processes shall not require shorelines stabilization for reasonable development to occur, as demonstrated through a geotechnical analysis of the site and shoreline characteristics. New development that would require shoreline stabilization which results in significant impacts to adjacent or down current properties will not be allowed.
- B. New non-water dependent development, including single-family residences, that includes new structural shoreline stabilization will not be allowed unless all of the conditions below can be met:
 - 1. The need to protect the primary structure from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal actions, currents, and waves;
 - 2. The erosion is not being caused by upland conditions such as loss of vegetation and drainage;
 - 3. Nonstructural measures such as placing the development further from the shoreline, planting vegetation, or installing onsite drainage improvements are not feasible or sufficient; and
 - 4. The erosion control structure will not result in a net loss of shoreline ecological functions or processes.
- C. New water dependent development or new structural shoreline stabilization for existing water dependent development will not be allowed unless all of the conditions in B above are met. However, the considerations of placing the development further from the shoreline and erosion being caused by natural processes do not apply to water dependent development that can demonstrate its need for a waterfront location due to the nature of its operations.

18.20.864 – New or Expanded Shoreline Stabilization Measures

- A. New or enlarged structural stabilization measures are prohibited except where necessary to protect or support legally existing primary structures or shoreline uses, in support of water dependent uses, for human safety, for restoration or enhancement activities, or remediation of contaminated sites.
- B. Structural shoreline armoring for the sole purpose of leveling or extending property or creating or preserving residential lawns, yards, or landscaping shall be prohibited. Where hard shoreline armoring already exists, property owners are encouraged to remove it and replace with soft armoring, or if conditions allow, return the shoreline to a natural condition.
- C. New or enlarged structural shoreline stabilization measures to protect legally existing primary structures or shoreline uses are prohibited unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Further:
 - 1. Normal sloughing, erosion of steep bluffs, shoreline erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis that demonstrates a danger exists to an existing development or residence, is not a demonstration of need;
 - 2. The geotechnical analysis shall evaluate onsite drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization;
 - 3. The design of the stabilization structure shall take into consideration erosion rates, onsite drainage issues, vegetation enhancement, and low-impact development measures as a means of reducing erosion;
 - 4. The analysis must demonstrate that nonstructural measures, planting vegetation, or installing onsite drainage improvements are not feasible or not likely to be sufficient; and
 - 5. The erosion control structure shall not result in a net loss of shoreline ecological functions.
 - 6. In geologically hazardous areas, stabilization structures or measures may only be allowed when no alternative, including relocation or reconstruction of existing structures, is found to be feasible and less expensive than the proposed stabilization measure.
- D. The use of hard structural stabilization measures such as bulkheads are prohibited unless demonstrated in a geotechnical analysis that soft structural stabilization measures (bioengineering) or non-structural measures (increased setbacks) are not feasible.
- E. Where structural shoreline stabilization measures are necessary, the size of the stabilization structure shall be the minimum necessary. The Administrator may require that the size and design of the structure be modified to reduce impacts to ecological functions.
- F. Where adverse impacts to shoreline ecological functions cannot be avoided, mitigation shall be required in accordance with mitigation sequence priorities set forth in OMC 18.20.410(B).
- G. In order to determine appropriate mitigation measures, the Administrator may require environmental information and analysis, including documentation of existing conditions, ecological functions and anticipated impacts, along with a mitigation plan outlining how proposed mitigation measures would result in no net loss of shoreline ecological functions.
- H. Shoreline stabilization measures that incorporate ecological restoration or enhancement through the placement of rocks, sand or gravel, and native shoreline vegetation are strongly encouraged.

Soft shoreline stabilization that restores ecological functions may be permitted water-ward of the Ordinary High Water Mark.

- I. Following completion of shoreline modification activities, disturbed areas shall be restored using native vegetation (see OMC 18.20.495 for specific provisions).
- J. Publicly financed or subsidized erosion control measures shall not restrict public access except where such access is inappropriate or infeasible, and shall incorporate public access and ecological restoration to the extent feasible.

18.20.866 – Shoreline Stabilization - Replacement and Repair

- A. For purposes of this section, “replacement” means the construction of a new structure to perform a shoreline stabilization function to replace an existing structure which no longer adequately serves its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.
- B. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves. The Administrator may waive the requirement for a geotechnical analysis if the applicant demonstrates through the use of photographs, site or grading plans, or other evidence that nonstructural measures are not feasible.
- C. The replacement structure shall be designed, located, sized, and constructed to assure no net loss of shoreline ecological functions.
- D. Replacement walls or bulkheads shall not encroach water-ward of the Ordinary High Water Mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing stabilization structure. Where a net loss of ecological functions associated with critical saltwater habitat would occur by leaving the existing structure, it must be removed as part of the replacement measure.
- E. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted water-ward of the Ordinary High Water Mark.

18.20.868 – Design of Shoreline Stabilization Measures

- A. Shoreline stabilization measures shall be designed by a Professional Engineer, registered as such in the State of Washington and shall conform to all applicable City and state policies and regulations, including the Washington State Department of Fish and Wildlife criteria governing the design of shoreline stabilization.
- B. The size of shoreline stabilization structures shall be the minimum necessary to protect the primary use or structure.
- C. To protect their structural integrity, shoreline stabilization measures shall be designed, constructed, and maintained to allow drainage of surface or groundwater away from the structures.
- D. Shoreline stabilization structures shall be located to tie in flush with existing bulkheads on adjacent properties, except when adjoining bulkheads do not comply with the standards set forth in this Chapter.
- E. Stairs may be built as an integral component of a bulkhead but shall not extend water-ward of the bulkhead unless necessary to directly access a pier or dock.

- F. Materials used for shoreline stabilization structures shall be durable, erosion resistant, and not harmful to the environment. The following materials shall be prohibited: demolition debris, derelict vehicles, tires, concrete rubble, or any other materials that contain toxic substances or create visual blight along the shoreline.
- G. Where hard armoring is approved, materials shall be used in the following order of priority:
 - 1. Large stones, with vegetation planted in the gaps. Stone should not be stacked any steeper than a 3:1 slope;
 - 2. Timbers or logs that have not been treated with toxic materials;
 - 3. Stacked masonry block;
 - 4. Cast-in-place reinforced concrete.
- H. Bioengineering is a preferred method of protecting upland property and structures or to maintain access to an authorized shoreline use. Bioengineering combines structural, biological and ecological concepts to construct living structures that stabilize the soil to control erosion using live plant materials as a main, but not only, structural component.
 - 1. Bioengineering shall generally be used when a geotechnical analysis confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as within three years.
 - 2. Bioengineering projects shall incorporate all of the following:
 - a. All bioengineering projects shall use a diverse variety of native plant materials, including trees, shrubs, and grasses, unless demonstrated infeasible for the particular site;
 - b. All cleared areas shall be replanted following construction and irrigated (if necessary) to ensure that all vegetation is fully re-established within three years. Areas that fail to adequately reestablish vegetation shall be replanted with approved plant materials until such time as the plantings are viable;
 - c. If no VCA is established in OMC 18.20.620 Table 6.3, a minimum five (5) foot vegetated buffer shall be provided landward of the project limits to allow bank protection plantings to become established. The buffers shall not be disturbed for a minimum of three years.
 - d. All bioengineering projects shall be monitored and maintained as necessary. Areas damaged by pests and/or the elements shall be promptly repaired; and
 - e. All construction and planting activities shall be scheduled to minimize impacts to water quality, fish and wildlife, and aquatic and upland habitat and to optimize survival of new vegetation.
- I. Structural stabilization shall be located, designed, and constructed in accordance with mitigation sequencing in OMC 18.20.410(B) to minimize adverse impacts to shoreline ecological functions and processes. Protection of adjacent property and existing development shall also be considered in the design and location of structural stabilization measures.

18.20.870 - Shoreline Stabilization Reports

- A. Geotechnical reports prepared pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms a significant possibility that such a structure will be damaged within three years as a result

of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions.

- B. Where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three years, the report may still be used to justify more immediate authorization to protect against erosion using soft armoring.

18.20.872 - Breakwaters, Jetties, Groins, and Weirs – General Provisions

- A. Jetties and breakwaters are prohibited except as an integral component of a water-dependent use such as a marina or port, and only when there is a documented need for the protection of navigation, a harbor, water dependent industrial activities, a marina, fisheries or habitat enhancement project, or a comprehensive beach management plan.
- B. Where permitted, floating, portable, or submerged breakwater structures, or smaller discontinuous structures shall be used only when it has been demonstrated that they will not impact shoreline ecology or processes such as littoral drift or cause erosion of down drift beaches.
- C. The location and design of breakwaters, jetties, groins, and weirs shall be subject to mitigation sequencing outlined in OMC 18.20.410(B).
- D. The design of breakwaters, jetties, groins and weirs shall conform to all applicable requirements established by the Washington Department of Fish and Wildlife and the U.S. Army Corps of Engineers.
- E. The design of breakwaters, jetties, groins and weirs shall be certified by a registered civil engineer.
- F. Breakwaters, jetties, groins and weirs shall not intrude into critical salt water habitats or into salmon and steelhead habitats unless the following conditions are met:
 - 1. An alternative location or alignment is not feasible;
 - 2. The project is designed to minimize its impacts on the environment;
 - 3. All adverse impacts will be mitigated;
 - 4. The project, including associated mitigation, will result in no net loss of ecological functions associated with the critical saltwater habitat;
 - 5. The facility is in the public interest and consistent with the state's interest in resource protection and species recovery, and
 - 6. If the project results in significant 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.
- G. Breakwaters, jetties, groins and weirs shall be constructed of suitable materials. The use of solid waste, junk or abandoned automobiles, asphalt or any building demolition debris is prohibited.
- H. The movement of sand or beach materials shall be evaluated during permit review for breakwaters, jetties, groins and weirs. Those projects which are found to block littoral drift or cause new erosion of down-drift shoreline shall be required to establish and maintain an adequate long-term beach feeding program. This may include artificially transporting sand to the down-drift side of an inlet with jetties; or artificial beach feeding in the case of breakwaters, groins, and weirs.
- I. Breakwaters, jetties, groins and weirs shall incorporate provisions for public access when feasible.

- J. Breakwaters, jetties, groins and weirs shall be designed to protect critical areas and shall provide for mitigation according to the mitigation sequence in OMC 18.20.410 (B).

18.20.874 – Breakwaters, Jetties, Groins, and Weirs - Environment Designations

Breakwaters, jetties, groins and weirs are permitted only adjacent to the Urban Intensity and Port Marine Industrial shoreline environments, are subject to a shoreline conditional use permit, and shall be approved only when there is a documented need for the protection of navigation, a harbor, water dependent industrial activities, a marina, fisheries, or habitat enhancement project.

18.20.900 – Existing Buildings and Uses within Shorelines

- A. Subject to the provisions of this Chapter, a use, lot, or structure lawfully existing prior to the effective date of this Shoreline Program or any amendment thereto, which is rendered nonconforming by this Shoreline Program may continue and may also be repaired, remodeled, and/or restored in the manner and to the extent that it existed upon the effective date of this Shoreline Program.
- B. In addition to and independent of the provisions below, existing roads, trails, utility lines and similar linear facilities, together with any associated facilities such as pump stations or stormwater treatment ponds, which do not conform to the provisions of Chapter 18.20 may expand within existing easements and rights-of-ways. Modification or expansion outside of existing easements or rights-of-way which would otherwise be prohibited may be authorized by the decision maker upon finding there is no feasible alternative, the development is necessary for the public welfare, as proposed and designed includes appropriate mitigation, and the development is not likely to result in a net loss of shoreline ecological functions.

18.20.910 – Alteration of Nonconforming Structures in Shoreline Jurisdiction

- A. Shoreline Structures – The following regulations apply to nonconforming structures located in shoreline jurisdiction. Alterations pursuant to this section shall not result in a net loss of shoreline ecological functions and processes. The applicant shall obtain all required permits or approvals prior to construction. All alterations shall comply with applicable development regulations.
1. Structures within Shoreline Setbacks - Alteration of structures located landward of the Ordinary High Water Mark within a required shoreline setback is limited to:
 - a. For structures located partially within the shoreline setback, alterations shall be limited to the addition of height and expansion into areas outside the shoreline setback.
 - b. For structures located entirely within the shoreline setbacks, alterations shall be allowed for the addition of height or expansion on the upland side of the structure, or both.
 - c. Interior and exterior remodels and the addition of upper stories are permitted. Except as provided above, such additions shall not extend beyond the existing or approved building footprint. Any expansion of nonconforming structures that further encroach on the Ordinary High Water Mark setback by decreasing the distance between the structure and the Ordinary High Water mark shall require a shoreline variance.

2. Overwater Structures – Alteration of structures located water-ward of the Ordinary High Water Mark is prohibited except:
 - a. Alterations to the footprint or building envelope may be permitted when required by Washington State Department of Natural Resources for light penetration;
 - b. Alterations that do not increase or expand the building footprint nor increase the height are permitted; and
 - c. Existing covered moorage may be maintained, repaired or replaced pursuant to WAC 173-27-040.
 3. Structures within Vegetation Conservation Areas. Alteration of structures located landward of the Ordinary High Water within a required Vegetation Conservation Area (VCA) that include expansion of the building footprint is prohibited. Only interior and exterior remodels and the addition of upper stories are permitted.
- B. Unintentionally damaged or destroyed nonconforming structures.
1. In the event that a structure or building that does not conform to the shoreline setback is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, the structure may be restored within the existing footprint.
 2. In order to take advantage of this section, a complete application for a building permit must be submitted within one year of the unintended event that caused the destruction of the structure. The applicant loses their rights under this subsection if the building permit lapses without construction of the structure proposed under the building permit.

18.20.920 – Existing Nonconforming Shoreline Uses

- A. Conversion and discontinuation of nonconforming uses in shoreline jurisdiction shall be governed by OMC 18.37.060(A) and (E).
- B. Expansion of nonconforming shoreline uses. The hearings examiner may authorize expansion of a use that does not conform to the Shoreline Master Program if the applicant demonstrates all of the following:
 1. The use clearly requires a specific site location on the shoreline not provided for under this chapter, and
 2. Extraordinary circumstances preclude reasonable use of the property in a manner consistent with this chapter. Provided, however, that expansion of uses in shoreline jurisdiction that are also nonconforming with zoning use restrictions are not authorized by this section. See OMC 18.37.060(B).

18.20.930 – Existing Nonconforming Shoreline Lots

- A. 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 Shoreline Master Program which does not conform to the present lot size standards of the Program may be developed if the lot conforms with OMC 18.37.080 and the development conforms to all other requirements of the Master Program.



City Council

Briefing of Olympia Municipal Community Court

Agenda Date: 7/19/2016
Agenda Item Number: 6.A
File Number: 16-0851

Type: information **Version:** 1 **Status:** Other Business

Title

Briefing of Olympia Municipal Community Court

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Receive the information. Briefing only; no action requested.

Report

Issue:

Whether to receive a briefing from the Olympia Municipal Court on its recently launched Community Court.

Staff Contact:

Scott Ahlf, Judge 360.753.8025

Diane Whaley, Public Defense Coordinator 360.753.8057

Rocio Ferguson, Olympia City Prosecutor 360.753.8043

Monica Schneider, Probation Services Supervisor 360.753.8707

Diana Duch, City of Olympia Public Defender 360.584.9243

Maryam Olson, Court Administrator 360.709.2783

Presenter(s):

Scott Ahlf, Judge

Rocio Ferguson, City Prosecutor

Monica Schneider, Probation Services Supervisor

Diane Whaley, Public Defense Coordinator

Background and Analysis:

The Community Court is a therapeutic court held weekly in conjunction with the Wednesday arraignment calendar to provide a different approach to the legal problems that are resistant to the traditional court solutions.

Issues

Due to the increasing homeless population in the City, a large number of the filings in the court are for quality of life offenses within the downtown core-such as criminal trespass, theft, littering, marijuana possession, urinating in public and use of drug paraphernalia. Many of the defendants charged with these crimes often suffer from mental illness and/or chemical dependency. The court is seeing the same people charged with these crimes in and out of court on a constant basis-without getting the help they need to stop these re-occurring crimes. These individuals need direct access to service providers such as housing, chemical dependency treatment, mental health treatment, job resources, education resources, and health care/basic need resources. In Thurston County, one of the key complaints is that resources are spread out and they are spread thin. In the past, the court has addressed these crimes with a day of work crew and the case would close. Historically, these cases consisted of approximately 1/3 of the cases coming through the system here in Olympia. For 2016, Olympia is estimated to handle approximately 1,440 public defense criminal cases. For now, one public defense contractor is assigned to community court and she is contracted for 300 cases per year. In addition, the city is equipped with a second 300 count public defender to assist on that same calendar if needed. The city counts cases under the Indigent Standards as implemented by the Washington State Supreme Court.

Objectives

The three primary objectives for the Olympia Municipal Community Court are:

- 1) Breaking the cycle of low-level offending
- 2) Holding offenders accountable through visible restitution
- 3) Improving public trust in the justice system

Through a collaborative effort with local service providers, we can obtain immediate access to services for the defendant's by providing on-site links. Currently, Olympia Community Court is operating every Wednesday morning with on-site links here at the courthouse to housing, education, job, and health care resources. By individually assessing each defendant based on their needs, their court conditions are tailored to help give them a hand-up. Each on-site provider currently is given an opportunity to provide feedback on what is recommended as a next step as well. All of the information gathered by probation in the initial assessment and the feedback from the providers are used in the community court forum here in Olympia so that the Judge, Prosecutor, and Defense Attorney can all jointly have an open discussion on ways to help the individual. With the increased amount of information provided by the defendant, an increased level of educated decision making helps ensure the correct conditions are in place. Most importantly, the collaborative effort helps the court players guide the defendant to the best result possible in their case.

In Community Court, cases can either usually resolve as an infraction or via guilty plea with a deferred sentence to dismiss the case at the end of a probationary period. The defendant has incentive to comply. However, community court can also be used as a condition of a sentence or to mitigate a probation violation. The provider services can also be accessible to traditional defendant's moving through the Olympia Municipal Court system based on referral. If a defendant opts into the program, the length of time in community court could vary from 2 weeks to 12 months, with the current average length of time at 3 months.

Olympia Municipal Court “soft launched” on January 6th, 2016. Over the past 6 months, on-site providers have included SideWalk (housing link), Pacific Mountain Workforce Council (employment link), South Puget Sound Community College (education link), SeaMar (basic needs/health care link), and Intercity Transit (employment/transportation link). As of June 29th, 2016, Olympia Municipal Court has had 57 participants and 5 graduates. The top three crimes that have opted in have included: 1) 36% Driving While License Suspended in the Third Degree, 2) 32% Theft 3, and 8% Trespassing. The top 3 links in order of need that have occurred are: 1) 62% employment, 2) 60% basic needs, and 3) 57% housing.

On April 1st, 2016, the City of Olympia was informed that it was selected as 1 of 10 sites by the Center for Court Innovation to receive \$200,000 plus technical assistance over the course of two years from July 1st, 2016 through June 30th, 2018 from the Center for Court Innovation to implement/enhance the Olympia Municipal Community Court. The grant is funded by the U.S. Department of Justice’s Bureau of Justice Assistance. It will fund payment to our current service providers that have agreed to receive payment. In addition, it will fund the ability to add Northwest Resources ii as a drug and alcohol contractor link to provide drug and alcohol evaluations on-site; a SeaMar Mental Health contractor link to provide mental health evaluations on-site; and a SeaMar contracted case manager to assist in evaluating defendants needs and eligibility for community court, track community court client progress, and solicit additional providers to fulfill resource needs for community court.

The new additional service providers will start on-site in July and August of 2016. All current and new service providers will be housed in the old court services building and court will continue to operate out of courtroom 2 at the Criminal Justice Center. In addition, the grant will fund additional employee hours for data collection/resource coordination; 7 new computers/1 printer-copier; network wiring etc; payment towards sewage/gas/electricity for the provider site at the old court services building; security; office supplies; court signage; a community garden for defendant’s to work off community service hours; pro tem funds; and travel funds for educational opportunities for the community court core team.

Through the process of data collection, the City of Olympia will be able to track the impact that the current structure of community court has had on the Olympia Municipal Court justice system as a whole over time. Statistically, other community court jurisdictions have seen the positive impact this structure can have. Examples include reduced jail days served, higher percentage of sentence completion, increased community service compliance, and increased criminal justice approval ratings. Another potential positive impact is reduced recidivism. If this is achieved, combined with the assignment of an attorney of the day to the community court calendar, Olympia could see a reduced number of cases assigned to Olympia public defense contractors over time. This could have a positive economic impact given a changing public defense system with newly implemented Standards for Indigent Defense as of 1/1/15 in which public defenders are required to count cases and take no more than 400 misdemeanor cases/year. In Olympia, with an immediate link on-site to help and a collaborative effort to support each defendant in Community Court, together we can meet our objectives and potentially reap the reward of a positive impact on the Olympia Municipal justice system as a whole.

Attachments:

- Quick Facts
- Court Policy
- Needs Assessment Form
- Court Order
- Court Grant
- Project Goals
- Court Brochure

Provider Information

2016 COMMUNITY COURT QUICK FACTS *as of 6/29/16

Total Participants: 57

Total Graduates: 5

Charges Opted-In by Type	# of Participants (may have multiple charges)
DWLS 3	26
Theft 3	23
Criminal Trespass	6
Possession of Marijuana	4
Violation of Exclusion Order	3
Minor in Possession	2
Use of Drug Paraphernalia	2
Disorderly Conduct	1
Urinating in Public	1
Fighting in Public	1
False ID for Liquor	1

Service Needs/Issues	# of Participants
Employment	37
Drivers License	31
Housing	28
Education	21
Mental Health	19
Chemical Dependency	17
Health Insurance	10
Medical/Dental	8
Connect with VA	1
None	3

Provider	# of Participant Links Made
Pacific Mountain Workforce Development Council	29
SeaMar (Basic Needs)	28
SideWalk	27
South Puget Sound Community College	14

COMMUNITY COURT POLICY

OBJECTIVE: To provide access to resources to offenders charged with nuisance crimes and/or other low level offenses in order to stop criminal behavior in the future.

ELIGIBLE OFFENSES:

The prosecutor may, in his or her discretion, decide that a defendant is eligible to opt into community court on particular offenses. The following offenses will generally be considered community court eligible offenses. Offenses designated as domestic violence offenses will not be included.

- Trespass (except trespass on residential property)
- Urinating in Public
- Pedestrian Interference
- Failure to Respond to Notice of Infraction
- Littering
- Disorderly Conduct (except assaultive behavior)
- Possession of Marijuana
- Use Drug Paraphernalia

An offender with no criminal history who opts-in to community court at arraignment, is eligible to have the offenses listed in the table below reduced to an infraction upon completion of the intake/orientation process and completion of required links with service providers and/or stake holders.

Criminal offense	Infraction	Fine
TRESPASS	Prohibited Land Use OMC 18.04.040 B1	\$ 103
DISORDERLY CONDUCT NOISE VIOLATION	Violation of Noise Standards OMC 8.24.020 J	\$ 103
PEDESTRIAN INTERFERENCE	Fail to obey Ped control device RCW 46.61.060 Ped crossing not at crosswalk RCW 46.61.240	\$ 56
FAILURE TO RESPOND TO NOTICE OF INFRACTION	Reduce to underlying infraction	\$ TBD
URINATE IN PUBLIC	Prohibited Land Use OMC 18.04.040 B1	\$ 103
POSSESS MARIJUANA	Sell/Give Drug Paraphernalia RCW 69.50.4121	\$ 250
USE DRUG PARAPHERNALIA	Sell/Give Drug Paraphernalia RCW 69.50.4121	\$ 250
LITTERING	Throw/deposit debris RCW 46.61.645	\$216

An offender with prior criminal history charged with the above listed offenses or with Violation of Exclusion Order, may opt-in to community court at arraignment, if the City determines that he or she is eligible for community court. Upon determining eligibility, the City may offer a deferred sentence with terms that will be negotiated on a case by case basis.

DWLS 3:

An offender charged with DWLS 3, who has no more than 4 prior similar offenses within 5 years, who opts into community court at arraignment, will have their charge reduced to the infraction No Valid Operator's License with ID. A mitigation hearing would be scheduled. If the offender appears at the mitigation hearing with proof of a valid license, the City recommends a \$150 fine. If a valid license is not obtained, the fine will be \$350. Offenders with 5 prior DWLS or NVOL offenses within 5 years, may still opt into community court at arraignment with entry of a plea of guilty. A sentencing date would be scheduled. If defendant appears at the sentencing hearing with a valid license, the City will recommend no jail time and a \$43 conviction fee.

THEFT:

An offender charged with Theft, with no prior criminal history, may be eligible to opt into community court at arraignment. Upon determining eligibility for community court, the City may offer a 6 month deferred sentence with conditions of no law violations, no entry into the involved business, pay a \$400 fine, complete Moral Reconciliation Therapy program, and complete a community court intake and other requirements.

MIP:

An offender charged with MIP, with no prior criminal history, may be eligible to opt into community court at arraignment. Upon determining eligibility for community court, the City may offer a 6 month deferred sentence with conditions of no law violations and completion of a community court intake/orientation and requirements which will be negotiated on a case by case basis.

IN ALL CASES, THE PROSECUTOR RETAINS THE DISCRETION TO ALLOW CERTAIN OFFENDERS TO OPT IN TO COMMUNITY COURT, EVEN IF NOT SPECIFICALLY LISTED ABOVE.

Rocio D. Ferguson

Chief Prosecutor

CITY OF OLYMPIA MUNICIPAL COURT
NEEDS ASSESSMENT FORM

NAME (Last, First, MI): _____ DOB: _____ DATE: _____

CHARGE(S): _____

ARE YOU CURRENTLY TRESPASSED FROM ANYWHERE? Yes No WHEN TRESPASSED? _____
Comments: _____

Ethnicity/Race: Ethnic origin (please select one of the following): Hispanic / Latino White Black / African American
 Native Hawaiian / Other Pacific Islander American Indian / Alaska Native Asian

Do you have a valid ID Card? Yes No Receiving any type of State Assistance? Yes No
Food Stamps TANF GAU /ABD Medicaid SSI/SSDI/DSHS Other _____

DEPENDENCY: (Number of people you legally and financially support?) Children Ages:
Marital Status: Single Married Widowed Divorced Separated In a relationship? YES NO
Are your children in foster care? Do you have family support? Who? _____ What type? _____

ADDRESS/PHONE#/EMAIL: _____

Is this a permanent address? Y or N Transient? Y or N Homeless? Y or N How long? Why homeless? _____

EDUCATION: (Please indicate your highest level of education) _____

MILITARY: Have you ever been in the military? Y or N Active Duty? Y or N Reserve/National Guard? Y or N
Branch of Service? _____ Years? _____ PTSD? Y or N TBI? Y or N MST? Y or N Discharge Status _____

EMPLOYMENT:
Employed? Unemployed? How long? _____ Occupation? _____ Wage per hour? _____ Hrs. per wk. _____
Name and Location of Employer? _____ Unemployed reason _____
Job Skills/Comments: _____

ALCOHOL/DRUG/DV:
Current A/D of Choice? _____ How long? _____ Previous A/D Issues? _____
Clean/sober how long? _____ Currently/previously in TX, where/when? _____

Are you a victim of Domestic Violence or a violent crime? Y N Do you want services? Y N
PRESCRIPTION MEDS TAKEN/COMMENTS: _____

MENTAL HEALTH: Has anyone ever advised you to seek counseling or mental health services? Y or N
Have you ever sought help in a hospital setting for anxiety, sadness, depression, or psych issues? Y or N
Would talking with someone be helpful to you in working on some life issues or concerns? Y or N
COMMENTS: _____

PHYSICAL DISABILITIES: Do you have Health Insurance? Y or N _____ Name of Insurance Provider _____
Primary Care Doctor? _____ Preference Health Care Facility? _____

ADDITIONAL NOTES: _____

OLYMPIA MUNICIPAL COURT
For the STATE OF WASHINGTON

CITY OF OLYMPIA, Plaintiff,

vs.

Defendant.

Case No. _____

Community Court Order

Bail exonerated.

This court having accepted defendant's plea of guilty to the charge(s) of:

1. _____ 2. _____ 3. _____

HEREBY ORDERS THAT this case is deferred for _____ days with the following conditions:

- Commit no criminal law violations and appear at all hearings scheduled by the court.
- Meet with Probation Department Daily; Twice Weekly; Date: _____ @ _____
- Defendant shall not possess or consume alcohol or any non-prescribed drugs. As part of this condition you must submit to UA or PBT upon request of probation.
- Take all medication as prescribed; Compliance will be monitored by probation.
- Perform _____ hours of community service through an organization designated by the Olympia Probation Department; Defendant must report to probation within 1 court day to schedule community service.
- Complete _____ hours/days of work crew; Defendant must report to probation within 1 court day to schedule.
- Complete a Mental Health Evaluation within _____ days and enroll in recommended treatment within _____ days.
- Complete a Chemical Dependency Evaluation within _____ days and enroll in recommended treatment within _____ days; ADIS only.
- Complete Moral Reconciliation Therapy (MRT) program through the Olympia Probation Department within 90 days.
- Complete Anger Management within _____ days.
- Obtain GED within _____ days;
- Meet with Pacific Mountain Workforce and Complete Employment Services Job Readiness Workshop within _____ days;
- Meet with SeaMar and complete enrollment for health insurance food stamps/basic food program.
- Meet with Veterans Affairs and if eligible, complete application for services.
- Contact the Department of Licensing and obtain a valid driver's license. Obtain a WA State ID Card w/in _____ days.
- Obtain a copy of driver's abstract within _____ days from Court Services window at the Olympia Municipal Court.
- Pay a \$43 conviction fee and a \$ _____ monitoring fee.
- Pay restitution to the victim in the amount of \$ _____; Restitution is reserved.
- Contact and link with the following social services as recommended in the attached form within deferral period:
 - Housing/Homelessness; GED/Education; Employment; Veterans Service;
 - Chemical Dependency; Mental Health; Health Care; _____

YOU MUST RETURN FOR REVIEW ON _____ at 11:01AM.

YOU MUST ALSO RETURN TO COURT ON _____ at 11:01AM FOR COMMUNITY COURT GRADUATION. UPON SUCCESSFUL COMPLETION OF THESE CONDITIONS, CHARGES IN THIS CASE WILL BE DISMISSED.

JUDGE/PRO TEM

Date

Defendant

Community Court is held in the Olympia Municipal Court at 900 Plum Street SE Olympia, WA 98501. You can reach the court at (360) 753-8312 and Olympia Probation at (360) 753-8263.



Department of Justice



Office of Justice Programs

EMBARGOED UNTIL 4:30 P.M. EDT
WEDNESDAY, APRIL 13, 2016

OFFICE OF COMMUNICATIONS
CONTACT: JOAN LAROCCA (202) 307-0703

Bureau of Justice Assistance Awards \$2 Million to Implement and Enhance Community Courts

Center for Court Innovation selects 10 sites nationwide

Washington – The U.S. Department of Justice’s Bureau of Justice Assistance (BJA) today announced they have awarded \$2 million to the Center for Court Innovation to fund 10 sites to implement or enhance a community court. The Center for Court Innovation is making the funds available, through a grant from BJA, under the 2016 Community Court Grant Program.

“Community courts help make communities safer and hold offenders accountable, while simultaneously helping to build public trust in the justice system,” said Denise O’Donnell, Director of the Bureau of Justice Assistance, as she announced the winners today at the Community Justice Summit 2016 in Chicago, IL. “The Bureau of Justice Assistance is proud to support the growing movement of community courts,” she said.

Each selected site will receive \$200,000 as well as technical assistance from the Center for Court Innovation to implement or enhance a community court. Community courts respond to lower level crimes by ordering offenders to pay back the communities they’ve harmed through visible community service projects—for example, painting out graffiti, beautifying neighborhood parks, and cleaning up litter and debris from public streets. At the same time, community courts link offenders to services designed to help them address the underlying issues fueling their criminal behavior, such as drug and alcohol treatment, mental health services, job training, and public benefits. Nationally, research has shown that the community court model can reduce crime and substance use, increase services to victims, reduce unnecessary use of jail, save money, and improve public confidence in justice. BJA received over 70 applications from jurisdictions across the country and after a rigorous peer review process, these 10 applicants were selected for funding:

Cleveland Municipal Court, OH

Philadelphia Mental Health Care Corporation, PA

Las Vegas Township Justice Court, NV

Dallas County Public Defender’s Office, TX

City and County of Honolulu Prosecuting Attorney’s Office, HI

City of Olympia, WA

City of Eugene, OR

City of Jersey City, NJ

Circuit Court of Cook County, IL

City of Spokane Municipal Court, WA

For more information about the community court model, go to:
www.courtinnovation.org/topic/community-court.

For more information about the Bureau of Justice Assistance, please visit www.bja.gov.

About the Office of Justice Programs (OJP)

OJP, headed by Assistant Attorney General Karol V. Mason, provides federal leadership in developing the nation's capacity to prevent and control crime, administer justice and assist victims. OJP has six components: the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; the Office for Victims of Crime and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking. More information about OJP can be found at www.ojp.gov.

###

June 17, 2016

City of Olympia
900 Plum St. SE
Olympia, WA 98507
Attn: Judge Scott Ahlf

Dear Judge Ahlf,

We are pleased to confirm the appointment of the City of Olympia as a subcontractor (“Sub-Awardee”) to the Center for Court Innovation (the “Center”), a project of the Fund for the City of New York (the “Fund”), in connection with the 2016 Community Court Grant Program for the implementation or enhancement, as the case may be, of a community court project. The funding (the “Funding”) under this subcontract (the “Subcontract”) is supported by grant # 2015-DC-NY-K002 from the U.S. Department of Justice, CFDA #16.738, and the Sub-Awardee was selected following a nationwide, peer-reviewed solicitation process.

1. Services: Sub-Awardee will provide the services, in accordance with the proposal application attached and labeled **Annex A**, to implement the community court project (the “Project”) described in Annex A. Such services include without limitation the training and supervision of its own staff, coordination functions for development of the Project, collaborative activities with Project partners, and participation in technical assistance activities with the Center, all as further described in Annex A.
2. Persons in Charge:
 - (a) The Center identifies Julius Lang, Director of Training and Technical Assistance, or his designee, as the member of the Center’s staff who will have primary responsibility within the Center to supervise and coordinate the Center’s rights and responsibilities hereunder with regard to the Center’s provision of technical assistance for the Project and payment of the Funding.
 - (b) Sub-Awardee identifies Judge Scott Ahlf, Municipal Court Judge for the City of Olympia, as the member of its staff who will have primary responsibility to supervise and coordinate the performance of the Project, and to collaborate with the Center in the receipt of technical assistance.
 - (c) Sub-Awardee identifies Maryam Olsson, Court Administrator, as the primary point of contact on behalf of Sub-Awardee for fiscal matters. Substitution of said person(s) shall be made only with the approval of the Center. Failure to make such person(s) available to the extent necessary to perform the activities to implement the Project skillfully and promptly shall be a material violation of the terms of this Subcontract.

3. Term: (a) Sub-Awardee's appointment will run from July 1, 2016 to June 30, 2018, unless this Subcontract is (i) terminated at an earlier date by thirty (30) days written notice to Sub-Awardee from the Center; provided however, that any such termination notice will have been preceded by notice of intention to terminate with a 30-day opportunity to cure any breach hereunder, or (ii) extended in writing by an amendment signed by both parties.
 - (b) In the event of such termination, Sub-Awardee shall immediately cease the provision of all services hereunder, and the Center shall be liable to Sub-Awardee only for the services actually performed up to and including the effective date of the termination.
4. Compensation: As compensation for services, the Center will pay Sub-Awardee a total maximum amount of Funding not to exceed \$200,000 in accordance with the budget attached and labeled **Annex B**. Notwithstanding any provision to the contrary in this Subcontract, if for any reason the U.S. Department of Justice or its Bureau of Justice Assistance (together, "BJA") shall not make available to the Center any portion of the Funding, the Center shall be under no obligation to make any disbursements to Sub-Awardee in excess of a prorated portion of the Funding that the Center actually receives from BJA for the Project. The failure of the Center to receive any portion of the Funding from BJA shall be deemed to be the failure of an essential condition for the Center's obligations under this Subcontract. Sub-Awardee shall have no claim or cause of action or commence any proceeding against the Center or BJA arising out of the failure of BJA to provide all or any portion of the Funding to the Center.
5. Invoicing & Payment: (a) Sub-Awardee shall submit to the Center a report of actual expenditures as compared to budgeted expenditures ("Invoice/Expense Statement"), no later than thirty (30) days following the close of each calendar quarter. Each Invoice/Expense Statement shall include a narrative explanation of any variances that exceed 10% of the budgeted amount. A sample Invoice/Expense Statement is attached and labeled **Annex C**. The Center shall review the invoices and supporting documentation as required, and may disallow for payment any charges which were not rendered, documented and/or authorized in accord with the terms of this Subcontract, or for failure to deliver any required service, deliverable, or work product. Failure to submit invoices in accordance with the provisions of this Subcontract may result in the termination hereof by the Center.
 - (b) The Center will disburse Funding in quarterly installments provided that (a) the funds are made available to the Center pursuant to the Subcontract, and (b) Sub-Awardee has submitted all Invoice/Expense Statements required under this Subcontract. However, for the work performed during the quarter ending September 30th, an estimate of expenses must be provided in writing by the third business day of October. Invoice/Expense Statements will be payable under Net 30 day terms and should be mailed to the attention of the Fiscal Department at the Center for Court Innovation, 520 Eighth Avenue, 18th Floor, New York, NY, 10018.
6. Reporting: Sub-Awardee shall provide to the Center: (a) quarterly reports no later than ten (10) days following the close of each calendar quarter, briefly describing the Project and Sub-Awardee's activities relating thereto, and accounting for Funding expenditures made by Sub-Awardee during such period, in such form and containing such detail as may be reasonably acceptable to the Center and (b) such additional information or reports relating to the Project as the Center may reasonably request from time to time. A sample programmatic reporting template is attached and labeled **Annex D**.

7. Assurances: Sub-Awardee hereby represents and warrants that it has received and reviewed the terms and conditions of the Cooperative Agreement (grant 2015-DC-NY-K002) attached hereto and labeled as **Annex E**, including without limitation the Special Conditions attached thereto. As a recipient of Funding hereunder, Sub-Awardee agrees that all the work or services provided under this Subcontract shall be in full compliance with the terms of the Cooperative Agreement, and that Sub-Awardee shall provide to the Center all information and documentation needed for reporting under the Federal Funding Accountability and Transparency Act (FFATA).

8. Independent Contractor Status: (a) Sub-Awardee and any of its agents and employees involved in the Project shall be deemed at all times to be an independent contractor, and Sub-Awardee is wholly responsible for the manner in which it performs the services and work requested by the Center under this Subcontract. Neither Sub-Awardee nor any of its agents or employees will hold themselves out as, or claim to be, officers or employees of the Center or the Fund nor make any claim to any right or privilege applicable to an officer or employee of the Center or the Fund, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, social security coverage or employee benefits, retirement membership or credit.

(b) No experts or consultants or employees who are employed or engaged by Sub-Awardee to carry out the Project under this Subcontract will be employees of the Center or the Fund and will not otherwise be under contract to the Center or the Fund. Sub-Awardee shall be responsible for the experts', consultants' and employees' work, direction, compensation and personal conduct in connection with this Subcontract. Nothing in this Subcontract shall impose any liability or duty on the Center or the Fund for acts, omissions, liabilities or obligations of Sub-Awardee, or the acts, omissions, liabilities or obligations of any person, firm, company, agency, association, expert, consultant, independent contractor, specialist, trainee, employee, servant, or agent employed or engaged by Sub-Awardee, or for taxes of any nature, including, but not limited to, worker's compensation, unemployment insurance, disability benefits and social security, or, except as specifically stated in this Subcontract, to any person, firm or corporation.

9. Indemnification Clause: Sub-Awardee shall indemnify, defend, save and hold harmless the Center and the Fund, its officers, agents, employees and volunteers (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Sub-Awardee or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of Sub-Awardee, as the subcontractor hereunder, to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the Sub-Awardee from and against any and all claims. It is agreed that the Sub-Awardee will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this Subcontract, the Sub-Awardee agrees to waive all rights of subrogation against the Center and the Fund, its officers, officials, agents and employees for losses arising from the Project.

10. Intellectual Property: Sub-Awardee hereby agrees that material created in connection with the Project, including policy and procedure manuals, case studies, newsletter features, photographic images, etc. shall remain the property of its author or other owner, but the Center shall be permitted to highlight such material on its website, in the media and elsewhere in furtherance of its role as BJA's technical assistance provider for the Project and the 2016 Community Court Grant Program in general. The provisions of this paragraph shall survive the expiration or termination of this Subcontract.

11. Notices: All notices, requests and other communications pursuant to this Subcontract shall be in writing, delivered by hand or sent by registered or certified mail, return receipt requested, or by Airborne Express, Federal Express, Express Mail or other overnight mail service that provides a receipt to the sender. Receipt of a notice by the party to whom the notice is transmitted will be deemed to have occurred upon receipt, if hand delivered; five days from the date of mailing, if mailed; or the next business day after transmittal by Airborne Express, Federal Express, Express Mail or other overnight delivery service that provides a receipt to the sender. All notices and correspondence will be delivered to the following addresses and addressees, unless notified in writing of any change:

(a) **If to the Center:**

Center for Court Innovation
520 Eighth Avenue, 18th Floor
New York, New York 10018
Attention: Julius Lang, Director of Training and Technical Assistance

(b) **If to Sub-Awardee:**

City of Olympia
900 Plum St. SE
Olympia, WA 98507
Attn: Judge Scott Ahlf
Phone #: 360-753-8312
E-mail: sahlf@ci.olympia.wa.us

12. Consent to Jurisdiction/Forum Selection:

The Center, the Fund and the Sub-Awardee agree that all actions or proceedings arising in connection with this Subcontract shall be tried and litigated exclusively in the State and Federal courts located in the City of New York, State of New York. The aforementioned choice of venue is intended by the parties to be mandatory and not permissive in nature, thereby precluding the possibility of litigation between the parties with respect to or arising out of this Subcontract in any jurisdiction other than that specified in this paragraph. Each party hereby waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this paragraph, and stipulates that the State and Federal courts located in the City of New York, State of New York shall have in personam jurisdiction and venue over each of them for the purpose of litigating any dispute, controversy, or proceeding arising out of or related to this Subcontract. Each party hereby authorizes and accepts service of process sufficient for personal jurisdiction in any action against it as contemplated by this paragraph by registered or certified mail,

return receipt requested, postage prepaid, to its address for the giving of notices as set forth in this Subcontract. Any final judgment rendered against a party in any action or proceeding shall be conclusive as to the subject of such final judgment and may be enforced in other jurisdictions in any manner provided by law.

- 13. **Audits:** Sub-Awardee agrees to keep and maintain efficient, complete and separate books and records concerning any and all costs incurred in the performance of this Subcontract. Such books and records shall be kept available for examination by an independent auditor at all reasonable times and places during the period of this Subcontract and for six (6) years from the date of final payment. Any State, local government, Indian tribal government and nonprofit organization that expends \$500,000 or more of total federal awards in a fiscal year is required to obtain a single audit conducted by an independent auditor in accordance with the Office of Management and Budget Circular A-133 and the Single Audit Act. If the Sub-Awardee has obtained an independent audit in accordance with the Single Audit Act, a copy of the most recent audit must be provided to the Fund upon execution of this Subcontract. Organizations and agencies that expend less than \$500,000 in a year are exempt but records must be available for review or audit. If the Sub-Awardee is exempt from the requirements of the Single Audit Act, upon execution of this Subcontract, the Sub-Awardee must submit a letter to the Center/Fund stating that the A-133 requirements do not apply to the Sub-Awardee and the basis of the exemption.

If the terms and conditions of this Subcontract, as set forth in this letter, are acceptable to the Sub-Awardee, please sign two copies of this letter and return both with a copy of a completed W-9 form to the attention of the Fiscal Dept. at the Center for Court Innovation, 520 Eighth Avenue, 18th Floor, New York, NY 10018.

Sincerely,

Julius Lang
Director, Training and Technical Assistance
Center for Court Innovation

Confirmed & Accepted:



Judge Scott Ahlf
Municipal Court Judge
City of Olympia

06/20/16

Date

91-6001261

Business Tax ID #

360-753-8312

Telephone #

Approved:

Amy Kotler
Director, Finance & Administration
Center for Court Innovation

Date

<p><i>For internal use only</i></p> <p>Project Code: _____</p>
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TIME/TASK PLAN

PROJECT GOAL(S): NEEDS ASSESSMENT AND PLANNING

OBJECTIVES	ACTIVITIES/TASKS	TIMEFRAME	PERSON(S) RESPONSIBLE
Analyze defendant demographics/data	Access and analyze data regarding police service/arrests/defendant demographics/court operations	0-12 months	Either: PD Coordinator/Clerk OR Employ Resource Coordinator
Conduct a community survey	Draft Survey, distribution process, administer results, collect and summarize results	0-6 months	Either; PD Coordinator and various core team members
Conduct focus groups	Attend and participate in community meetings-first goal is the Community Care Center team involving-Interfaith, SideWalk, Capital Recovery Center, Olympia Free Clinic, SeaMar, Behavioral Health Resources, and DSHS.	0-3 months	Various core team members
Stakeholder Interviews	Focus on Mental Health Services, Drug and Alcohol Services, Veterans Services, and Department of Licensing Services	0-6 months	PD Coordinator and various core team members
Draft a needs assessment report	Summarize and analyze data collection, the community survey, community meetings, focus groups, and additional stakeholder interviews	0-12 months	PD Coordinator/various core team members OR Employ Resource Coordinator

PROJECT GOAL(S): ENGAGE IN COLLABORATIVE PARTNERSHIPS WITH COMMUNITY PROVIDERS AND FILL IN THE GAPS

OBJECTIVES	ACTIVITIES/TASKS	TIMEFRAME	PERSON(S) RESPONSIBLE
Formalize MOU with Drug and Alcohol/Mental Health/Department of Licensing/Veteran's Resources	Seek out providers in the community and develop policy/protocol to report participant progress to community court	0-12 months	PD Coordinator and various core team members OR Employ Resource Coordinator
Seek out partnerships with basic needs resources –ie bus passes, transportation, additional housing resources	Seek out providers in the community	0-12 months	PD Coordinator and various core team members OR Employ Resource Coordinator
Explore a potential partnership with the future Community Care Center	Attend meetings with the Community Care Center team	0-24 months	Various core team members

PROJECT GOAL(S): CLEARLY DEFINE INTAKE PROCESS

OBJECTIVES	ACTIVITIES/TASKS	TIMEFRAME	PERSON(S) RESPONSIBLE
Develop a risk assessment tool-new intake form	Review tools provided by Center for Court Innovation and Draft	0-3 months	Probation Supervisor and various core team members
Develop a protocol for in-custody defendants	Draft policy	0-3 months	Various core team members
Develop a protocol for walk-in defendants not on cc calendar	Draft policy	0-3 months	Various core team members
Develop a protocol for non-defendant participants who need services	Draft policy and work with Olympia Police Department to identify those in need in the community	0-3 months	City Prosecutor and various core team members

PROJECT GOAL(S): CREATE CLEAR GUIDELINES FOR COMPLIANCE AND SANCTIONS

OBJECTIVES	ACTIVITIES/TASKS	TIMEFRAME	PERSON(S) RESPONSIBLE
Develop progress reports to utilize during court and staffings	Draft report and conduct meetings for input	0-6 months	Various core team members
Develop clear policies on incentives and sanctions for consistent response	Conduct meetings for input and draft policies. Develop clear timelines for rewards if jurisdiction is lengthy. Seek incentive and reward ideas	0-6 months	Various core team members
Create a graduation certificate	Draft certificate	0-3 months	Public defense coordinator

PROJECT GOAL(S): DEVELOP TRAINING MODULES AND OPPORTUNITIES FOR CORE STAFF AND ON-SITE PROVIDERS FOR APPROPRIATE INTERACTION /CORE PROBLEM SOLVING/ONGOING ENGAGEMENT

OBJECTIVES	ACTIVITIES/TASKS	TIMEFRAME	PERSON(S) RESPONSIBLE
Develop protocol for participant interaction	Develop and hold training sessions	0-12 months	Various core team members
Conduct monthly trainings for core staff and providers	Develop and hold training sessions	0-12 months	Various core team members

PROJECT GOAL(S): DEVELOP RELATIONSHIPS WITH LOCAL COLLEGES/UNIVERSITIES FOR INTERN OPPORTUNITIES

OBJECTIVES	ACTIVITIES/TASKS	TIMEFRAME	PERSON(S) RESPONSIBLE
Develop a core list of resources for interns from local colleges/universities	Draft emails seeking interest and draft intern description-submit to schools	0-12 months	Public Defense Coordinator

PROJECT GOAL(S): HARD LAUNCH COMMUNITY COURT

OBJECTIVES	ACTIVITIES/TASKS	TIMEFRAME	PERSON(S) RESPONSIBLE
Formalize a fully functional community court	Publicly announce hard launch and celebrate with the community	0-4 months	Judge Ahlf

PROJECT GOAL(S): SOLICIT FUNDING

OBJECTIVES	ACTIVITIES/TASKS	TIMEFRAME	PERSON(S) RESPONSIBLE
Obtain funding in order to sustain our current partnerships and expand/support the entire community court program	Submit budget proposal to the City/ Speak to City Council/ Establish connection with local funding organizations/seek out additional grants	0-24 months	Various core team members

PROJECT GOAL(S): DATA COLLECTION PROGRAM/TECHNICAL ASSISTANCE

OBJECTIVES	ACTIVITIES/TASKS	TIMEFRAME	PERSON(S) RESPONSIBLE
Develop a concise data collection program and formalize statistics	Revise the shell provided by Seattle Community Court and seek out a long term program solution	0-24 months	Various core team members

PROJECT GOAL(S): EMPLOY RESOURCE COORDINATOR/SOCIAL WORKER/DATA SPECIALIST

OBJECTIVES	ACTIVITIES/TASKS	TIMEFRAME	PERSON(S) RESPONSIBLE
Employ staff to sustain community court	Continue to assess needs of court and how these positions can be clearly defined	0-24 months	Court

PROJECT GOAL(S): IMPROVE PUBLIC RELATIONS

OBJECTIVES	ACTIVITIES/TASKS	TIMEFRAME	PERSON(S) RESPONSIBLE
Create trust and public perception of the criminal justice system	Reach out to local groups and invite them to attend court. Engage in their group discussions and "listen"	0-24 months	Various core team members

Community Court works to provide practical, targeted solutions rather than traditional punishment.

Working together with community-partners, we offer the individual a hand-up, with the goal of restoring the person and community.

Potentially Eligible Offenses: If eligible, the following offenses may be referred by the Prosecutor/Public Defender to Community Court:

- Disorderly Conduct (except assaultive behavior)
- DWLS3 (Driving with License Suspended)
- Failure to Respond to Notice of Infraction
- Littering
- Marijuana Possession
- MIP (Minor in Possession)
- Pedestrian Interference
- Theft 3
- Trespass (except trespass on residential property)
- Urinating in Public
- Use of Drug Paraphernalia

Court Held Weekly

Wednesdays | 9 - Noon

Olympia Municipal Court | Courtroom 2

For More Information

Diane Whaley, Public Defense Coordinator
dwhaley@ci.olympia.wa.us
360.753.8057



The City Community Court Team is made up of:

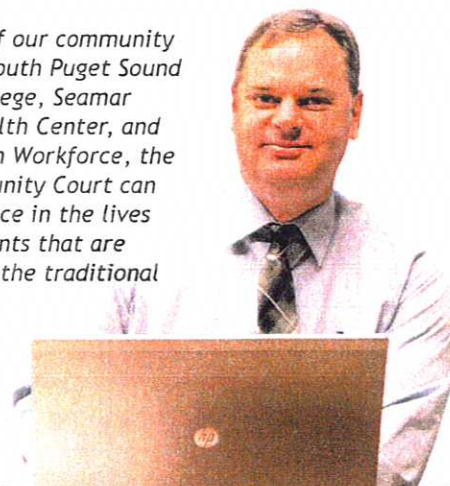
- The Honorable Scott Ahlf, Municipal Court Judge
- Rocio Ferguson, Chief Prosecutor
- Monica Schneider, Probation Services Supervisor
- Maryam Olson, Court Administrator
- Diane Whaley, Public Defense Coordinator
- Diana Duch, Public Defender

Community Partners specializing in...

- Housing Services
- Education
- Employment
- Chemical Dependency
- Health Care
- Licensing
- Mental Health Services
- Veterans Services

With the help of our community partners, like South Puget Sound Community College, Seamar Community Health Center, and Pacific Mountain Workforce, the Olympia Community Court can make a difference in the lives of our participants that are unattainable in the traditional court setting.

Judge Ahlf



olympiawa.gov

Olympia Municipal Community Court Service Provider Information

➤ **Sea Mar**

Name: Martha Arana

Address: 5501 Building 9th Avenue SE Lacey, WA 98503

Email: marthaarana@seamarchc.org (work)

m.arana81@yahoo.com (personal)

Phone Numbers: (253) 457-7371

- Sea Mar is a community health center that specializes in medical, dental, and mental/behavioral health assistance. Sea Mar can help with enrollment in health insurance and finding medical clinics to fit each person's individual set of needs. They can also help with applying or renewing healthcare applications or food stamps. Sea Mar will help to locate and contact additional health services depending on the person's unique needs.

➤ **South Puget Sound Community College (SPSCC)**

Names: Angela Holley- transition studies

Melanie Miller – outreach program

Rumi Minowa- outreach program

Address: 2011 Mottman Road SW Olympia, WA 98512 Building 34, Room 108

Email: aholley@spscc.edu, mmiller@spscc.edu, rminowa@spscc.edu

Phone Number: (360) 596-5288, (360) 596-5331, (360) 596-5446

- South Puget Sound Community College has many options for education that tailor to the specific goals and interests of their students. Not only do they offer multiple services but they will fit the teaching to certain learning styles as well. Some of the services that they have to offer are; adult basic education at \$35/quarter, office career training, automotive service training, and options to get a diploma (ages 21 and up). They also offer GED training courses, advising, placement tests, and help with financial aid services/enrollment.

➤ **Pacific Mountain Workforce Development Council**

Names: Autumn Anderson

Ashley Fuston

Address: 151 NE Hampe Way Chehalis, WA 98532

Email: aanderson@esd.wa.gov

Fax: (360) 740-6888

Phone Number: (360) 740-6893

- Pacific Mountain Workforce Development Council is a partner with Work Source that helps find employment opportunities for those in need. They have a calendar available at the end of each month that will map out their available workshops and job fairs on employment for that time frame. Pacific Mountain will help with employment

security and developing job-finding skills such as creating resumes, cover letters, and applications. They can also help employers screen for potential employees that they have spoke to in the past.

➤ **Village Vans**

Name: Erin Pratt

Address: 526 Pattison Street SE Olympia, WA 98501

Email: epratt@intercitytransit.com

Phone Number: (360) 705-5831

Fax: (360) 357-6184

- Village Vans is a volunteer ran company that is directed by Intercity Transit. They offer two different free services, transportation and a job skills program for the drivers. Transportation is available Monday thru Friday 7:30 am to 5:30 pm and will take people to look for work, get groceries, and doctor appointments. All you need to do is call to make an appointment. They can book as far as the following Friday. They can even take your children along for the ride as well, all for free, as long as you have used state or federal assistance in the past 3 years. The job skills program for the drivers is available for those who volunteer 20 hours a week to drive the vans and have a low infraction driving record with a completed background check. In this program, they will train drivers to work in the transportation industry, create a resume, cover letter, job search assistance, and build references.

➤ **Sidewalk**

Name: Pauline Houx or Jill Esbeck

Address: 1139 5th Avenue SE Olympia, WA 98501

Email: PaulineH@walkthurston.org or Jill@walkthurston.org

Phone Number: (360) 515-5587

- SideWalk helps men and women without children experiencing homelessness in the Thurston County community. Sidewalk can help with screening for local shelters and can conduct a Vulnerability Index to assess your level of need. They also maintain a vulnerability based waitlist for Drexel Housing and Quixote Village and provide information and resources to assist people with other forms of housing.
- For those meeting the eligibility criteria, the Sidewalk Shelter Diversion program is the quickest way to get housed. If you know someone, family or friend, that would be able to let you live with them for at least 30 days, Sidewalk will provide a financial incentive to compensate them for that month. If you are unable to make use of the Shelter Diversion program, SideWalk will schedule you for an assessment appointment to discuss the Rapid

Rehousing program and begin your search for housing. Rapid Rehousing provides a limited amount of funding to help you get into housing, which can assist in paying the deposit and move in costs. After you are housed, you will be offered an opportunity to receive continued support from one of our volunteer Housing Stability advocates for up to 9 months.



City Council

Approval of Amended Critical Areas Ordinance

Agenda Date: 7/19/2016
Agenda Item Number: 6.B
File Number: 16-0745

Type: ordinance **Version:** 1 **Status:** Other Business

Title

Approval of Amended Critical Areas Ordinance

Recommended Action

Committee Recommendation:

The Planning Commission voted unanimously to recommend Council adoption of the proposed Amended Critical Areas Ordinance.

City Manager Recommendation:

Move to adopt the proposed amended Critical Areas Ordinance.

Report

Issue:

Whether to adopt the amended Critical Areas Ordinance.

Staff Contact:

Linda Bentley, Senior Planner, Community Planning & Development, 360.570.3746

Presenter(s):

Linda Bentley, Senior Planner, Community Planning & Development

Background and Analysis:

Under the Washington State Growth Management Act (GMA), the City is required to include Critical Areas in its development regulations and update the Critical Areas Ordinance periodically as part of the City's Comprehensive Plan update. The Olympia Critical Areas Ordinance (CAO), found primarily in Olympia Municipal Code (OMC) Chapter 18.32, is the main set of development regulations that protects critical areas in the City of Olympia.

Other protections for critical areas include: Frequently flooded areas in OMC 16.70, marine and freshwater shorelines as defined by the Shoreline Management Act in OMC 18.20, and Storm and Surface Water Utilities in OMC 13.16.

There are two substantive statutory requirements in this CAO update:

Critical Areas Review for Best Available Science - The city hired ESA Associates to do a Best

Available Science (BAS) review to ensure that our policies and development regulations are based on the most current science and best management practices for designating and protecting critical areas.

Anadromous Fish - Cities are required to give special consideration in their development regulations to preserve or enhance anadromous fish population and habitat. Anadromous fish, such as salmon, are those that spawn and rear in fresh water and mature in marine waters.

In addition to the changes for BAS, we also proposed amendments to some sections for improved clarity, better organization and stronger consistency with GMA requirements.

The Land Use and Environment Committee directed that the CAO update should also include a review of potential additional protections for locally important species and habitats. To ensure we could complete the BAS updates by the deadline required by state statute and to allow more time for an in-depth look at the locally important species and habitats issue, we divided the tasks into Phase 1 (BAS) and Phase 2 (species and habitats).

Phase 3 involves amendment of the City's Shoreline Master Program (SMP) to adopt the new CAO by reference, which must be approved by the Department of Ecology before the SMP is effective.

Phase 1 Status

The Planning Commission held a public hearing on June 6, 2016, to receive comments on the Phase 1 proposed updates to the CAO. Three written comments were received by the June 10 deadline. On June 20, the Planning Commission reviewed the additional amendments to the CAO recommended by staff, based on comments received, and unanimously voted to recommend to Council approval of the proposed amendments. Council adoption of the amended Critical Areas Ordinance before you tonight would complete Phase 1.

Phase 2 Status

Work has begun on Phase 2 wherein the City and consultant ESA will look at options to protect our locally important species and their habitats. This work will identify:

- gaps in current federal, state and local regulatory protections
- legal bases for protecting species and habitats
- current best practices in comparable cities
- recommendations for best ways to protect our species and habitat

Some species and habitats are known; others may be identified and considered through a technical working group meeting, public workshops and other meetings or hearings.

Tentative Phase 2 Schedule

Consultant "technical memo"	July 2016
Working group meeting	July 2016
Public information meeting	August 2016
Planning Commission/LUEC briefings	July-September 2016
Final recommendations	October 2016

Phase 3

Under provisions of the Washington State Shoreline Management Act, all amendments to the City's CAO must also be adopted into the City's Shoreline Master Program (SMP) and approved by the Department of Ecology (DOE) before the amended CAO is effective within designated shoreline areas (generally the land area within 200 feet of the water).

Legal Process

Because any amendments to our CAO require adoption into our SMP and subsequent approval by DOE (which can be a 4-6 month process) and we did not want the confusion of having two critical area regulations - one for shorelines and one for uplands during that gap - we have structured the legal adoption process as follows:

1. Public hearing on Phase 1 - Planning Commission, (Completed June 6, 2016)
2. Council adoption of Phase 1 CAO amendments, with no publish date, i.e., no effective date at this time
3. Planning Commission or Council public hearing on Phase 2 (any further amendments to the CAO if regulatory solutions are determined to best protect locally important species and habitats)
4. Council adoption of Phase 2 CAO amendments, with no publish date

AND

5. Concurrent Council public hearing on and adoption of amendments to the SMP adopting Phase 1 (and 2 if applicable) CAO amendments, with no publish date
6. DOE approves SMP amendment
7. Upon DOE approval, Critical Area and Shoreline Master Program Ordinances are published and effective 5 days from publication

If the Phase 2 work on protecting locally important species and habitats does not result in additional amendments to the CAO, steps 3 and 4 may be eliminated.

As long as the above-referenced process is completed before June 2017, the City will be considered in compliance with the Growth Management Act and may continue to use the current CAO and SMP until the amended CAO and SMP become effective.

Neighborhood/Community Interests (if known):

Olympia Coalition for Ecosystems Preservation, Wildfish Conservancy, and Black Hills Audubon Society submitted comments as part of the public hearing. Staff responded to each comment for Planning Commission's deliberations, agreed with many of the commenters' recommendations, and proposed further amendments as appropriate.

Options:

1. Adopt the Critical Areas Ordinance as recommended.
2. Adopt the Critical Areas Ordinance with modifications.
3. Do not adopt the Critical Areas Ordinance and refer to the Planning Commission or Land Use Committee for further consideration.

Financial Impact:

Type: ordinance **Version:** 1 **Status:** Other Business

Updating the CAO and SMP to meet the statutory requirements is already a budgeted work item for Community Planning and Development in 2016. Initial review of locally important species and habitats is also included; however, some approaches to this task may require additional resources.

Attachments:

Ordinance

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON RELATING TO CRITICAL AREAS AND AMENDING CHAPTER 18.32, AND SECTIONS 18.02.180 AND 18.37.070 OF THE OLYMPIA MUNICIPAL CODE.

WHEREAS, the City of Olympia is required to plan under RCW 36.70A.040; and

WHEREAS, the Growth Management Act mandates that the City adopt development regulations to protect the functions and values of five (5) types of critical areas: wetlands, critical aquifer recharge areas, fish and wildlife habitat areas, frequently flooded areas, and geologically hazardous areas; and

WHEREAS, OMC 18.32 contains the City's development regulations pertaining to the protection of critical areas located within the City; and

WHEREAS, OMC 18.02.180 contains definitions pertaining, in part, to critical areas; and

WHEREAS, OMC 18.37.070 pertains to nonconforming structures and uses within critical areas; and

WHEREAS, pursuant to RCW 36.70A.130, the City is required to periodically review and, if needed, revise its development regulations, including its critical areas regulations, to ensure its regulations comply with the goals and requirements of the Growth Management Act; and

WHEREAS, RCW 36.70A.172 requires that when reviewing its Critical Areas Regulations the City must include Best Available Science in developing the regulations to protect the functions and values of critical areas and to give special consideration to conservation and protection measures necessary to preserve or enhance anadromous fisheries; and

WHEREAS, in performing this periodic review, the City hired a consultant who did extensive research on the standards and requirements for regulating critical areas, considered guidance available from state agencies including the Departments of Commerce and Ecology, consulted with experts in the disciplines covered by these regulations, and considered various sources of Best Available Science in developing its Critical Areas Regulations, giving special consideration to anadromous fisheries; and

WHEREAS, mines and volcanic hazards have not been included in this critical areas update as the City is not subject to these geological hazards; and

WHEREAS, the environmental impacts of the amendments to the Critical Areas Regulations resulted in the issuance of a Determination of Non-Significance (DNS) on May 26, 2016, with no appeals filed; and

WHEREAS, in developing these Critical Areas Regulations, the City provided for early and continuous public participation through a variety of means as demonstrated by the public record; and

WHEREAS, the City of Olympia Planning Commission considered the proposed Critical Areas Regulations amendments at a properly noticed public hearing on June 6, 2016, so as to receive public testimony; and

WHEREAS, at its June 20, 2016, meeting, the Planning Commission voted unanimously to recommend approval of the proposed amendment; and

WHEREAS, on July 19, 2016, the City Council discussed the proposed Critical Areas Regulations amendments at the properly noticed open public meeting; and

WHEREAS, pursuant to RCW 36.70A.370, the City utilized the process established by the Washington State Attorney General to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, on May 17, 2016, the City provided the Washington State Department of Commerce with a 60-day notice of its intent to adopt the amendment(s) to its Unified Development Code; and

WHEREAS, the City Council considered the entire public record, public comments, written and oral, the Best Available Science, and the Planning Commission's recommendation; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, including documents on file with the City of Olympia; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

WHEREAS, City Staff are known to the City Council, and staff's curriculum vitae shall be part of the record in support of this Ordinance;

WHEREAS, Chapters 35A.63 and 36.70A RCW and Article 11, Section 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance; and

WHEREAS, the City Council determined that the proposed amendments are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens and property owners of the City; and

WHEREAS, the City Council determined that the proposed amendments are necessary to ensure compliance with the goals and requirements of the Growth Management Act;

WHEREAS, it is the Council expectation that this Ordinance will not be published as required by law until it is approved by the Washington State Department of Ecology; and

WHEREAS, once the Department of Ecology approves the Ordinance, then it may be published as required by law; and

THEREFORE, THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Amendment. OMC 18.32 Critical Areas is amended as set forth in Exhibit A to this Ordinance; OMC.18.02.180 Definitions is amended as set forth in Exhibit B to this Ordinance; and OMC 18.37.070 Nonconforming Structures and Uses Within Critical Area Buffers is amended as set forth in Exhibit C to this Ordinance.

Section 2. Severability. If any portion of OMC 18.32, OMC 18.02.180, or OMC 18.37.070 is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of OMC 18.32, OMC 18.02, or 18.37.070.

Section 3. Codification of Amendments. The City Council authorizes the City Clerk to correct any non-substantive errors in Exhibit A, codify the amendments to OMC 18.32, 18.02.180, and 18.37.070 and publish the amended code.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Publication and Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Darren Dienaber

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

Exhibit A

Chapter 18.32
CRITICAL AREAS

18.32.000 Chapter Contents

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18.32.100 General Provisions - Purpose and Intent

It is the intent of this Chapter to implement the State of Washington Growth Management Act and its guidelines, the Countywide Planning Policies, and the Olympia Comprehensive Plan by ~~accomplishing the following:~~

- A. Protecting critical areas and the functions they perform by regulating their development, associated buffers, and their functions, and values while allowing reasonable use of property by:-
 - 1. achieving no net loss of critical areas values and functions;
 - 2. directing activities not essential in such areas to other locations;
 - 3. providing for review of proposed uses and activities on properties containing critical areas or their buffers to achieve compliance with standards designed to minimize impacts to critical areas and associated buffers; and
 - 4. providing for mitigation of unavoidable impacts;
- B. Establishing enforcement tools and processes designed to deter activities in violation of this chapter and provide for remedial action for unauthorized impacts to critical areas and their buffers;
- ~~B~~C. Maintaining groundwater recharge and preventing the contamination of groundwater resources;
- ~~E~~D. Minimizing damage due to landslides, seismic events, erosion or flooding;
- ~~D~~E. Protecting natural flood control and stormwater storage from alterations to drainage or stream flow patterns;

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- EE. Protecting wildlife habitat and species where possible throughout the City;
- FG. Controlling siltation, protecting nutrient reserves and maintaining stream flows and stream quality for fish and marine shellfish;
- ~~G. Protecting areas with high potential for marine aquaculture activities from degradation by other types of uses;~~
- H. Minimizing turbidity and pollution of wetlands, streams and fish-bearing waters and maintaining their associated wildlife habitat;
- I. Protecting the general public against avoidable losses from:
 - 1. Property damage and the cost of replacing public facilities,
 - 2. Subsidizing public mitigation of avoidable impacts, and
 - 3. The cost for public emergency rescue and relief operations;
- J. Identifying and mapping critical areas so that this information is available to appraisers, planners, assessors, owners, and potential buyers and lessees of property;
- K. Assisting property owners in developing their property consistent with this Chapter by promoting the use of innovative land use techniques; and
- ~~L. Achieving no overall net loss in acreage and functions of the City's remaining wetlands.~~

18.32.105 General Provisions - Critical Area Development Regulations

- A. This Chapter shall constitute the City of Olympia development regulations for the following critical area categories:
 - 1. General Provisions and standards which apply to the critical area categories are contained in OMC 18.32.100,
 - 2. Critical Aquifer Recharge Areas are covered in Drinking Water (Wellhead) Protection Areas provisions ~~are~~ contained in OMC 18.32.200,
 - 3. Important Habitats and Species provisions are contained in OMC 18.32.300,
 - 4. Stream and ~~Important Priority~~ Riparian Areas provisions are contained in OMC 18.32.400,

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5. ~~Wetlands and Small Lakes~~ provisions are contained in OMC 18.32.500, and
 6. ~~Landslide Geological Hazard Areas~~ provisions are contained in OMC 18.32.600.
- B. The development regulations for Frequently Flooded Areas are contained in OMC 16.70.
- C. The development regulations for Erosion Hazards Areas are contained in OMC 13.16 and OMC 18.32.650-660.
- D. The development regulations for Drinking Water (Wellhead) Protection Areas are contained in OMC 18.32.200 and 18.40.080.
- E. The development regulations for Marine Shorelines and Lake Shorelines as defined by the Shoreline Management Act are contained in ~~OMC 14.08~~ the City's Shoreline Master Program.

18.32.110 General Provisions - Application of Critical Area Regulations

- A. ~~This Chapter contains general provisions which apply to all critical areas and their buffers. The city shall regulate all uses, activities, and development within critical areas and the corresponding buffers and setbacks.~~ Additional requirements specific to a particular critical area are found in the sections for that critical area category (e.g., Landslide Hazard Areas, Wetlands). Compliance is required for both the general provisions regulations and those contained within the particular critical area category.
- B. The particular critical area category may include limitations on uses and activities which are specific to that critical area. Listing of various uses or activities within the critical area category does not authorize these if prohibited by another provision of the Olympia Municipal Code.
- ~~C. Developments which include or lie within three hundred (300) feet of a landslide hazard area, stream, or wetland, and a distance of up to one thousand (1,000) feet of an important habitat or species location depending upon the type of habitat, shall be subject to the provisions found herein.~~
- ~~D.~~ No action shall be undertaken by any person, ~~which~~ that results in any alteration of a critical area or its buffer except in compliance with the requirements, purpose and intent of this Chapter.
- ~~E.~~ Each regulated use and activity requiring either an administrative review or permit shall obtain written authorization from the Department prior to undertaking the activity.
- ~~F.~~ Special reports shall be prepared pursuant to OMC Section 18.32.115~~(B)~~ prior to approval of development proposals in order to evaluate any potential adverse environmental impacts upon the critical area.

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GF. Mitigation required by this Chapter shall be incorporated into the project except in cases where an alternative mitigation has been considered by the Department or the Hearing Examiner and found to be equal to or better than the requirements, and meets the purpose and intent of the Chapter.

HG. The Department may approve, approve with conditions or deny permits and approvals in order to carry out the purpose and intent of this Chapter.

HJ. Approval of or exemption of a development proposal pursuant to the provisions of this Chapter does not discharge the obligation of the applicant to comply with the procedural and substantive provisions of this Chapter.

I. These critical areas regulations shall be in addition to zoning and other regulations adopted by the City. Compliance with other regulations does not exempt the applicant from critical areas regulations. In the event of any conflict between these regulations and any other City regulations, those regulations which provide the greater protection to critical areas shall apply. Regulations can apply simultaneously and not be a conflict.

J. Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When any provision of this chapter or any existing regulation, easement, covenant, or deed restriction conflicts with this chapter, that which provides more protection to the critical areas shall apply.

K. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, shoreline substantial development or conditional use permits, shoreline variances, the Washington State Department of Fish and Wildlife hydraulic project approval (HPA), Army Corps of Engineers Section 404 permits, and National Pollution Discharge Elimination System (NPDES) permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter.

18.32.111 General Provisions – Exemptions

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

A. Operation, maintenance, or repair of existing public improvements, utilities, public or private roads, parks, trails, or drainage systems if the activity does not further alter or increase impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair, and no new clearing of native vegetation beyond routine pruning.

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B. Development involving or near artificially created wetlands or streams intentionally created from non-wetland sites, including but not limited to grass-lined swales, irrigation and drainage ditches, detention facilities, and landscape features, except wetlands, streams, or swales created as mitigation or that provide habitat for salmonids.

C. Normal maintenance and repair, reconstruction or remodeling, and additions to existing structures that do not increase the previously approved building footprint.

D. Development within the footprint of existing paved surfaces that were previously approved.

E. Educational and scientific research and investigative or exploratory activities such as wetland delineation or soil boring that do not require grading or placement of structures.

F. Passive recreation such as fishing, hiking or bird watching.

G. Removal by hand of invasive and noxious vegetation, which does not include using mechanical equipment or the use of herbicides. Invasive vegetation removal on steep slopes with the potential for erosion should use erosion control practices, followed by planting of native species to ensure slope stability.

H. Non-commercial signs associated with critical areas, including interpretive signs, Critical Area boundary signs as provided in OMC 18.32.145, and survey markers.

18.32.112 General Provisions – Public Agency and Utility Exception

A. If the application of this Chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

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B. An application for a public agency and utility exception shall be made to the City and shall include a critical area report including mitigation plan, if necessary; and any other related project documents such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act. The Department shall prepare a recommendation to the Hearing Examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with the criteria in OMC 18.32.112(D).

C. The Hearing Examiner shall review the application and Department recommendation, and conduct a public hearing pursuant to the provisions of OMC 18.82. The Hearing Examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the public agency and utility exception criteria in OMC 18.32.112(D).

D. The criteria for review and approval of public agency and utility exceptions follow:

1. There is no other practical alternative to the proposed development with less impact on the critical areas;
2. The application of this Chapter would unreasonably restrict the ability to provide utility services to the public;
3. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
4. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and
5. The proposal is consistent with other applicable regulations and standards.

E. The burden of proof shall be on the applicant to provide sufficient information and bring forth evidence in support of the application.

18.32.115 General Provisions - Applicant Requirements

The applicant requesting a critical areas review or approval for a development proposal on a site which includes or is near one or more critical areas shall submit a report containing the following:

A. Demonstrate that any proposed project submitted conforms to the purposes, standards and protection mechanisms of this Chapter; and The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

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B. ~~Include with the associated application a report which~~A copy of the site plan for the development proposal including:

1. ~~Identifies and characterizes critical areas on the development parcel, and critical areas located on adjacent parcels to the extent feasible;~~A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and
2. ~~Assesses the impact upon the critical areas both from activities outside the critical area and from any proposed alteration of the critical areas determined to be permitted under this Chapter, and~~A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;~~3. Proposes adequate protection mechanisms for the specific critical areas which may include but not be limited to avoidance, mitigation, monitoring and financial measures.~~

C. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

D. Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;

E. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

F. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

G. A description of reasonable efforts made to apply mitigation sequencing pursuant to OMC 18.32.135 to avoid, minimize, and mitigate impacts to critical areas;

H. Plans for adequate mitigation, as needed, pursuant to OMC 18.32.136.

18.32.120 General Provisions - Application Form for Critical Areas Review

A. Applications to undertake a use or activity within a critical area or its buffer which requires review by the Department shall be made on forms furnished by the Department and include information identified in the City of Olympia Application Content Lists, as amended.

B. Any person seeking to determine whether a proposed activity or an area is subject to this Chapter may request a written determination from the Department. Such a request for determination shall contain plans, data and other information as may be specified by the Department.

C. Any person intending to apply for authorization to undertake a regulated use or activity within a critical area is encouraged to meet with the Department as early as possible during the project planning stage. Efforts

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put into pre-application consultations will help applicants create projects ~~which~~that require less time to review and are more easily processed.

- D. The Department may waive one or more of the reports of this Chapter:
1. If the information is contained in another form submitted to the City,
 2. If the Department already has adequate information regarding the critical area, or
 3. If the nature of the project and its impacts are generally known, or the impacts of the project have been mitigated.

18.32.125 General Provisions - Department Requirements

In evaluating a request for a development proposal on a site which includes or lies near a critical area as described in OMC 18.32.110~~(C)~~, the Department shall:

- A. Confirm the nature and type of the critical areas by an on-site inspection and evaluate any special reports;
- B. Request that an interdisciplinary team evaluate a project if conditions warrant;
- C. Determine whether the development proposal is consistent with this Chapter, by granting, denying or conditioning projects;
- D. Make recommendations to the Hearing Examiner for projects requiring a Hearing Examiner review;
- E. Determine whether proposed alterations to critical areas are allowed by the standards contained in this Chapter or are necessary to allow reasonable use of the property as outlined in OMC 18.66.040; and
- F. Determine if any protection mechanisms, mitigation measures, monitoring plans, or financial surety measures are required to protect the public health, safety and welfare consistent with the purpose and intent of this Chapter, and if so, condition the permit or approval accordingly.

18.32.130 General Provisions - Hearing Examiner Role

- A. Within all critical area categories, "a public project of significant importance" may be authorized only by the Hearing Examiner after a public hearing.
- B. The Hearing Examiner shall review other uses and activities as listed in the particular critical area category.

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C. Hearing Examiner approval may be conditioned upon the implementation of mitigating measures determined necessary to ensure adequate protection of the public, critical area category, and purpose and intent of this Chapter.

18.32.135 General Provisions - Mitigation Priorities Sequencing and General Measures

A. ~~Mitigation shall be undertaken in the following order of preference~~ Applicants shall demonstrate that all reasonable alternatives have been examined with the intent to avoid and minimize impacts to critical areas. When alteration to a critical area is proposed, the alteration shall be avoided, minimized, or compensated in the following order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments;
6. Monitoring the impact and taking appropriate corrective measures.

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

B. Unavoidable impacts to critical areas often can and should be minimized by sensitive site design and deliberate actions during construction and implementation.

C. In addition to meeting the standards of the underlying zone, the Department may require the use of more restrictive mitigation techniques described as follows:

1. Limitation of building and development coverage;
2. Setbacks or buffers;
3. Size of lots and development sites;
4. Height limits;

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5. Density limits;
6. Time limits;
7. Restoration of ground cover and vegetation;
8. Creation of critical area tracts;
9. Innovative design or construction methods;
10. Signing, fencing, and limitation of access;
11. Notice of conditions placed on the title of the property;
12. Provisions for access or rights-of-way;
13. Financial surety; and/or
14. Other measures for environmental protection.

18.32.136 General Provisions - Mitigation Plan Requirements

When mitigation is required, the applicant shall submit for approval by the Department a mitigation plan as part of the critical area report. The mitigation plan shall include:

A. A written report identifying environmental goals and objectives of the mitigation proposed and including:

1. description of the anticipated impacts to the critical areas, the mitigating actions proposed and the purposes of the mitigation measures, including the site selection criteria; identification of mitigation goals; identification of resource functions; and dates for beginning and completion of site mitigation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
2. review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring, enhancing, or creating the type of critical area proposed; and
3. analysis of the likelihood of success of the mitigation project.

B. Measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Chapter have been met.

C. Written specifications and descriptions of the mitigation proposed, such as: _____

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1. the proposed construction sequence, timing, and duration;
2. grading and excavation details;
3. erosion and sediment control features;
4. a planting plan specifying plant species, quantities, locations, size, spacing, and density; and
5. measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

D. A program for monitoring construction of the mitigation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, 5, and 7 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not less than five (5) years.

E. Identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

F. Financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented, including fulfillment of the mitigation project, monitoring program, and any contingency measures.

G. Each critical area in this Chapter may require additional mitigation plan information.

18.32.140 General Provisions - Critical Area Tracts

A. As a condition of a binding site plan, short plat, large lot subdivision, planned residential development, or subdivision, the applicant may be required to create a separate critical area tract or tracts containing critical areas or their buffers as defined by this Chapter.

B. Critical area tract or tracts shall be subject to either:

1. A conservation easement for the protection of native vegetation within a critical area and/or its buffer dedicated to the City or other appropriate public, nonprofit, or private entity (e.g., land trust) with a demonstrated record of land conservation and approved by the Department;

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2. A deed restriction recorded on the Chapter of all lots containing a critical area tract or tracts created as a condition of the permit; or

3. Limiting conditions on the face of the recorded plat or binding site plan.

C. The deed restriction language shall be substantially similar to the following:

"Note: Before beginning and during the course of any grading, building construction, or other development activity, on a lot or development site subject to this deed restriction, the common boundary between the area subject to the deed restriction and the area of development activity must be fenced or otherwise marked to the satisfaction of the Olympia Community Planning and Development Department."

D. Responsibility for maintaining the tracts shall be held by an entity approved by the Department, such as a homeowners' association, adjacent lot owners, the permit applicant or designee, or other appropriate entity.

E. A note substantially similar to the following shall appear on the face of all plats, short plats, planned residential developments, or other approved site plans containing separate critical area tracts, and shall be recorded on the title of all affected lots:

"Note: The _____ is responsible for maintenance and protection of the critical area tracts. Maintenance includes ensuring that no alterations occur and that all vegetation remains undisturbed unless the express written authorization of the Olympia Community Planning and Development Department has been received."

18.32.145 General Provisions - Signs and Fencing

A. Permanent fences with signs or other access limiting features may be required on the perimeter of critical area buffers of hazardous or sensitive critical areas. Signs and fences must be maintained by the property owner in perpetuity.

B. The perimeter between the critical area buffer and those areas to be disturbed pursuant to a permit or authorization shall be marked in the field, and inspected by the ~~Director~~ Department prior to the commencement of permitted activities. This temporary marking shall be maintained throughout the duration of the permit.

C. Any sign shall be made of wood or metal and attached to a wood or metal post or another material of equal durability and posted at an interval of one per lot or every fifty feet, whichever is less, with the following or with alternative language approved by the Director:

“(Critical Area)

Protected by Law

Exhibit A

Contact City of Olympia Community Planning & Development

for Information"

D. The fence shall be visually open and constructed to allow animal passage.

18.32.150 General Provisions - Notice on Title

A. The property owner shall record a notice approved by the ~~Director~~ Department with the Thurston County Auditor.

B. This notice will provide notice in the ~~public~~ public record of the presence of a critical area or its buffer, the application of this Chapter to the property, and limitations on uses and activities within or affecting this area.

18.32.155 General Provisions - Authorized Activity Time Period

A. Authorization to undertake regulated activities within critical areas or their buffers shall be valid for a period of twelve (12) months from the date of issue unless a longer or shorter period is specified by the Department upon issuance of the permit.

B. For all administrative permits, an extension of an original permit may be granted upon written request to the Department by the original permit holder or the successor in title.

C. Prior to the granting of an extension, the Department may require updated studies and/or additional hearings if, in its judgment, the original intent of the permit would be altered or enlarged by the renewal, if the circumstances relevant to the review and issuance of the original permit have changed substantially, or if the applicant failed to abide by the terms of the original permit.

18.32.160 General Provisions - Application of Multiple Development Regulations

A. In those cases where there are differences in the degree of environmental protection imposed by this Chapter and that of other city ordinances or state or federal laws, the more restrictive shall prevail.

B. Where two or more critical areas overlap, the requirements of the more restrictive critical area shall apply.

C. When a critical area is also defined by OMC 14.08 as a shoreline, all applicable regulations shall apply.

18.32.165 General Provisions - Emergency Actions

A. Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer.

Exhibit A

- B. The person or agency responsible for the emergency action shall undertake good faith efforts to notify the Department prior to taking action and shall report to the Department ~~as soon as possible following commencement of the emergency activity, but in no case more than~~ within five one (51) working days after commencement.
- C. Within thirty (30) days, the Department will determine if the action taken was within the scope of the emergency actions allowed in this subsection.
- D. If the Department determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions ~~of~~ contained in OMC 18.73 and 4.44 shall apply.
- E. Within thirty (30) days of the decision in 18.32.165.C, the person or agency undertaking the action shall:
1. Submit all required applications and reports as would be required for a critical areas review. This application packet shall be reviewed in accordance with the review procedures contained within this Chapter; and
 2. Fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan.
- F. Restoration and/or mitigation activities must be initiated within and completed in a timely manner. Seasonal delays (such as not working in fish-bearing streams during spawning season) are acceptable.

18.32.170 General Provisions - Critical Area Maps

- A. The Department shall maintain a set of critical area maps for each critical area category (e.g., landslide hazard area, wetlands).
- B. The boundaries of those critical areas shall be ~~those as~~ defined in this Chapter.
- C. Additions or corrections to those critical area maps shall be made as necessary when additional site specific information is available.
- D. ~~In the event that~~ If there is a conflict between a boundary on the map and the criteria set forth in this Chapter, the criteria shall control.
- E. Omission of a site from a critical area map does not and shall not exempt that site from complying with otherwise applicable provisions of this Chapter.

18.32.175 General Provisions - Unauthorized Alterations and Enforcement

Exhibit A

A. When a critical area or its buffer has been altered in violation of this Chapter, the City shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Chapter.

B. When a stop work order is issued by the City, the affected development work shall remain stopped until the owner prepares a restoration plan which is approved by the City. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in Subsection (C). The Department may, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

C. Minimum Performance Standards for Restoration

1. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

a. The historic structural and functional values shall be restored, including water quality and habitat functions;

b. The historic soil types and configuration shall be replicated;

c. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and

d. Information demonstrating compliance with the mitigation plan requirements for a particular critical area shall be submitted to the Department

2. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

a. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;

b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

c. The hazard area and buffers shall be replanted with native vegetation, sufficient to minimize the hazard.

18.32.200 Drinking Water (Wellhead) Protection Areas - Purpose and Intent

~~In order to~~Protection of groundwater and related critical aquifer recharge areas is necessary to prevent contamination of drinking water and to provide critical recharging effects on streams, lakes, and wetlands that provide critical fish and wildlife habitat. To protect the public health and safety, prevent the degradation of groundwater used for potable water, ~~and to provide for regulations that prevent and control risks to the degradation of groundwater, and to prevent negative effects on streams, lakes, and wetlands,~~ drinking water (wellhead) protection areas shall be subject to the standards described in OMC 18.32.205 through 18.32.240.

18.32.205 Drinking Water (Wellhead) Protection Areas - Applicability and Designation

A. "Drinking Water (Wellhead) Protection Area" shall include the surface and subsurface area surrounding a water well or well field supplying a public water supply system with over one thousand (1,000) connections through which contaminants are reasonably likely to move toward and reach such well or well field within six (6) months, and one (1), five (5), and ten (10) years; for which the water purveyor has adopted a wellhead protection plan; and which said plan has been either formally proposed by the City to the Washington Department of Health pursuant to WAC 246-290-135 (3) and WAC 246-290-100 (2) or approved by the Washington State Department of Health.

The periods of time (six months and one, five and ten years) for movement of a contaminant toward a drinking water well define "time-of-travel zones." These zones establish areas around a drinking water source within which these wellhead protection measures apply.

An Extended Capture Zone can be designated outside the ten year zone if it is determined that surface water flows within that zone will discharge into the Wellhead Protection Area. All of the capture zones are considered part of the Drinking Water (Wellhead) Protection Zone.

Maps adopted pursuant to WAC 246-290-135 (3) and WAC 246-290-100 (2) which are hereby adopted by reference as though fully set forth herein, shall constitute the Drinking Water (wellhead) Protection Areas. Three copies of these maps shall be kept on file in the office of the City Clerk.

18.32.210 Drinking Water (Wellhead) Protection Areas - Exempt Uses and Activities

The following activities shall be exempt from the review requirements of this critical area category:

- A. Agriculture, existing and ongoing; except in conditions described in OMC 18.32.240;
- B. Boundary line adjustments;
- C. Building projects for individual, single family residences or duplexes connected to a sanitary sewer;

Exhibit A

- D. Conservation or preservation of soil, water, vegetation and wildlife in consultation with the Natural Resources Conservation Service, Washington Department of Fish and Wildlife, or other appropriate federal or state agency;
- E. Grading permit for less than five hundred (500) cubic yards of material;
- F. Installation, replacement, alteration or construction and operation in improved city road right-of-way of all water or electric facilities, lines, equipment or appurtenances but excluding substations and the application of chemical substances;
- G. Installation, replacement, alteration or construction and operation in improved city road right-of-way of all natural gas, cable communications and telephone facilities, lines, pipes, mains, equipment or appurtenances, but excluding the application of chemical substances;
- H. Location of boundary markers;
- I. Passive noncommercial outdoor recreation activities that have no impact on aquifer recharge, such as bird watching or hiking;
- J. Nondevelopment educational activities and scientific research;
- K. Normal and routine maintenance or repair of existing utility structures or right-of-way, excluding the application of chemical substances; and
- L. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities.

18.32.215 Drinking Water (Wellhead) Protection Areas - Prohibited Uses and Activities

- A. Expansion or development of the following uses shall be prohibited within a designated drinking water (wellhead) protection area:
 - 1. Landfills (municipal sanitary solid waste and hazardous waste, demolition (inert) and wood waste);
 - 2. Chemical/Hazardous waste reprocessing transfer, storage and disposal facilities;
 - 3. Wood and wood products preserving/treating;
 - 4. Chemical (including pesticides) manufacturing, processing, mixing, ~~manufacturing,~~ and storage;
 - 5. Gas stations without attendant;

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6. Pipelines - liquid petroleum projects or other hazardous liquid transmission;
7. Solid waste processing;
8. Electroplating, metal plating;
9. Manufacturing - electrical/electronic;
10. Petroleum products refining, reprocessing and related storage [except underground storage of heating oil or agricultural fueling in quantities less than one thousand one hundred (1,100) gallons for consumptive use on the parcel where stored];
11. Land spreading disposal facilities (as defined by WAC 173-304 and 173-308);
12. Cemeteries; and
13. Vehicle wrecking/junk/scrap/salvage yards.

B. Expansion or development of the following uses within the six (6) month and one (1) year time-of-travel zone of a designated drinking water (wellhead) protection area shall be prohibited:

1. Agriculture operations with over two hundred (200) animal units;
2. Gas stations with attendants,
3. Confined animal feeding operations including, but not limited to dairies, stables, horse boarding/training, auction facilities, feedlots, poultry raising;
4. Funeral facilities and taxidermy (~~without~~ not connected to a sanitary sewer);
5. Maintenance/fueling facilities including but not limited to municipal, county, school district, transit, airports, railroads, buses;
6. Hazardous waste transfer and storage facilities, including radioactive wastes as defined in Chapter 43.200 RCW;
7. Fertilizer storage facilities;
8. Storage tanks, underground;
9. Solid waste handling, transferring, recycling;

Exhibit A

10. Asphalt ~~plants~~/cement/-concrete plants;
11. Furniture staining/fabricating with hazardous materials;
12. Machine shops, metal finishing/fabricating.
13. Metal processing with etchers and chemicals;
- ~~14.~~ Wastewater reuse facilities/wastewater recycling satellite plant; and
- ~~15.~~ All other activities involving the use, handling, or storing of hazardous materials ~~of or~~ generating hazardous materials by their activities or action in quantities exceeding the threshold in 18.32.235 (B).

18.32.220 Drinking Water (Wellhead) Protection Areas - Administratively Authorized Uses and Activities

- A. All other uses and activities (~~i.e.,~~ those not listed in OMC 18.32.210 Exempted Uses and Activities, and OMC 18.32.215 Prohibited Uses and Activities) are subject to minimum mitigation standards as outlined in OMC 18.32.225 and further review by the Department in consultation with the Thurston County Health Officer. The Department shall determine whether the use or activity will ensure adequate protection of the source water supply, after a review of the hydrogeological reports, if required, as outlined in OMC 18.32.230.
- B. Administrative approval may be conditioned upon the implementation of mitigating measures which the Department determines are needed to ensure adequate protection of the source water supply.

18.32.225 Drinking Water (Wellhead) Protection Areas - Minimum Mitigation Standards

- A. Every application for a non-exempt development permit within a drinking water (wellhead) protection area shall meet these minimum standards for mitigation:
 1. If the development proposal indicates the use, storage, handling or disposal of hazardous materials above the minimum quantity thresholds listed in OMC 18.32.235, the applicant shall submit a hazardous materials management (spill) plan as outlined in OMC 18.32.235.
 2. Landscaping and irrigation plans that mitigate the leaching of soluble contaminants into groundwater. These plans shall meet the requirement of OMC 18.36 and in addition incorporate the following requirements:
 - a. Within the landscaping plans, the Agreement to Maintain Stormwater Facilities Operations and Maintenance Agreement, and the Conditions, Covenants and Restrictions regarding fertilizers, insert the following specific passage, "Only slow-release fertilizers shall be applied for the life of

Exhibit A

the development at a maximum amount of 4 lbs of nitrate as ~~N~~nitrogen annually and no more than 1 lb- per application for every 1,000 square feet of turf grass. Only fertilizer formulas with a minimum of 50% water-~~-~~insoluble form of nitrogen are permitted for use. Approved water-~~-~~insoluble forms of nitrogen include sulfur-coated and/or polymer-coated coated fertilizers, ~~I~~isobutylidene ~~D~~diurea (IBDU), ~~M~~methylene ~~U~~rea and ~~U~~reaform, and organic fertilizers registered with the Washington Department of Agriculture."

b. The total turf area of the development will be limited to 25% of the total regulated landscaped area. All additional plantings will include native and/or drought tolerant plants as listed in the Thurston County Common Sense Gardening Plant List or a similar list approved by the ~~above~~ department Washington Department of Agriculture.

c. Irrigation systems shall be designed and managed to maximize efficient use of water. Lawns will not be watered more than ~~a depth of~~ 1 inch per week over the area of turf. An irrigation consultation will be required at the time the irrigation system is installed to determine ~~precipitation~~ application rates and system ~~uniformity of system~~. Consultations will be conducted by an Irrigation Association Certified Landscape Irrigation auditor.

d. Integrated Pest Management Plans as required by Thurston County for any land use projects located within a City of Olympia delineated well head capture zone.

3. A well inventory report. Any existing wells shall be identified on a map, with an assessment of their condition, photographs and well logs (if available). Wells that are not being used for ongoing domestic water use, irrigation or monitoring will be decommissioned by the applicant following the procedures in ~~WAC Chapter 173-160-381~~ WAC.

4. ~~A~~ gGrant to the Department permission to access the development for the purposes of:

a. Providing pollution prevention outreach to residents, employees, and contractors. ~~Access~~ Outreach may include but is not limited to: interpretive sign installation, model home displays, demonstration sites, conducting interviews and surveys, observing practices, and distributing informational materials.

b. Ensuring compliance with items described under this section OMC 18.32.225, ~~section A above~~.

c. The grant of access shall be included in the Stormwater Operations and Maintenance Agreement and the Conditions, Covenants, and Restrictions for the project.

B. A dedicated groundwater monitoring well ~~is or wells may be~~ required in situations where infiltration of stormwater is proposed, or where other groundwater contamination risks or water quality or water level monitoring needs are identified by the Department. The wells will be installed and equipped with a dedicated

Exhibit A

pump and dedicated groundwater level pressure transducer and data logger by the applicant to eCity standards. Within 60 days after installation, the developer must demonstrate to the satisfaction of the Department that installed equipment functions as intended, consistent with Chapter 6 of the Engineering Design and Development Standards for groundwater monitoring wells. The developer must submit a report to the Department within 60 days of well completion with detailed information about the well including location, name of drilling company, date drilled and completed, borehole log, well construction log, depth to groundwater, any water quality sample results, and copies of documents required by the Washington State Department of Ecology as related to the well. Once the well passes City inspection, it will become part of the City's groundwater monitoring network of wells, to be monitored as needed by the City

C. The city may allow alternatives to the minimum mitigation standards described in this section in unique conditions and on a case-by-case basis when the applicant demonstrates that: the proposed alternative mitigation measure(s) will be adequate to protect the drinking water source.

1. The alternative mitigation measure(s) must be based on the best available science; and

~~2.~~ 2. The project ~~has been~~must be evaluated by a Hydrogeological Report as described in OMC 18.32.230, if required by the Department., ~~and~~

~~2.~~ ~~Based upon the Hydrogeological Report and the best available science the proposed alternative mitigation measures will be adequate to protect the drinking water source.~~

18.32.230 Drinking Water (Wellhead) Protection Areas - Hydrogeological Report

A. If the ~~d~~Department determines that where risks from on-site activities within a drinking water protection area are not well known, or where site specific assessment is necessary to determine mitigation levels above the minimum standards outlined in OMC 18.32.225, a ~~n~~Hydrogeological ~~r~~Report shall be required. This report shall identify the proposed development plan and the risks associated with on-site activities which may degrade the groundwater within a designated wellhead protection area.

B. This report shall be prepared, signed, and dated by a ~~state~~-licensed geologist or hydrogeologist, consistent with Chapter 18.220 RCW.

C. A Hydrogeological Report shall contain:

1. Information sources;
2. Geologic setting, including well logs or borings;
3. Background water quality;
4. Groundwater elevations;

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5. Location and depth of perched water tables and water-bearing aquifers;
6. Recharge potential of ~~facility-site~~ soils (~~permeability/transmissivity~~);
7. Groundwater flow direction and gradient;
8. Available data on wells located within 1/4 mile of the site;
9. Available data on ~~any~~ springs within 1/4 mile of the site;
10. Permanent and seasonal surface water body locations and recharge potential;
11. Any proposed monitoring or sampling schedules;
12. Analysis of the possible effects on the groundwater resource ~~of by~~ the proposed project including the storage or use of any hazardous materials;
13. Discussion of potential mitigation measures, should it be determined that the proposed project will have an adverse impact on groundwater resources;
14. Information required under Washington Department of Ecology Publication 05-10-028, as amended; and
15. Any other information as required by the Department.

18.32.235 Drinking Water (Wellhead) Protection Areas - Existing Uses

A. The Department in consultation with the Thurston County Health Officer shall request that an owner of any existing use which is located within a designated drinking water protection area, which uses, stores, handles or disposes of hazardous materials above the minimum cumulative quantities listed within this section submit a hazardous materials management (spill) plan that will ensure adequate protection of the aquifer and any domestic water supply. This plan shall be reviewed and updated as needed, and conditions under this plan shall be met on an ongoing basis.

Hazardous materials management (spill) plans shall include, at a minimum, the following:

1. A brief description of business activities and a list and map of the locations, amounts, and types of hazardous materials, hazardous waste and petroleum products, used or stored on site;
2. A description of inspection procedures for hazardous material storage areas and containers and the minimum inspection intervals. An inspection logbook shall be maintained for periodic review by the county;

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3. Provision of an appropriate spill kit with adequate spill supplies and protective clothing;
 4. Detailed spill cleanup and emergency response procedures identifying how the applicant will satisfy the requirements of the Dangerous Waste Regulations, Chapter 173-303 WAC, in the event that hazardous material is released into the ground, ground water, or surface water;
 5. Procedures to report spills immediately to the Department of Ecology and the Environmental Health Division of the Thurston County Public Health and Social Services Department, in that order;
 6. A list of emergency phone numbers (e.g., the local fire district and ambulance);
 7. Procedures to ensure that all employees with access to locations where hazardous materials are used or stored receive adequate spill training. A training logbook shall be maintained for periodic review by the county;
 8. A map showing the location of all floor drains and any hazardous material and petroleum product transfer areas; and
 9. Additional information determined by the approval authority to be necessary to demonstrate that the use or activity will not have an adverse impact on ground water quality.
 10. Liquid, soluble, or leachable hazardous materials, shall be stored in a secondary contaminant device or system that will effectively prevent discharge on-site. ~~(See Chapter 15.54 and 17.21 RCW regarding pesticide storage.) (Refer to Chapter 14.32 TCC, International Fire Code, regarding seismic standards).~~
- B. Any existing use ~~which that~~ uses, stores, handles or disposes of ~~hazardous~~ hazardous materials above these minimum cumulative quantities will meet requirements described in A-OMC 18.32.235(A) above:
1. Chemical substances that are ignitable, corrosive, reactive or toxic, consistent with WAC 173-303-090, as amended, except as provided for below. Minimum cumulative quantity: 160 pounds or the equivalent of 20 gallons.
 2. Cleaning substances for janitorial use or retail sale in the same size, packaging and concentrations as a product packaged for use by the general public. Chlorinated solvents and nonchlorinated solvents which are derived from petroleum or coal tar will not be considered a cleaning substance under this subsection, but rather a chemical substance under subsection (B)(1) of this section. Minimum cumulative quantity: eight hundred (800) pounds [or the equivalent one hundred (100) gallons], not to exceed fifty-five (55) gallons for any single package.
 3. Businesses which use, store, handle or dispose of chemicals listed in WAC 173-303-9903 as "P" chemicals. Minimum cumulative quantity: two and two tenths (2.2) pounds.

18.32.240 Drinking Water (Wellhead) Protection Areas - Farm Conservation Plan

- A. The Department, upon request of the Thurston County Health Officer, or based upon good cause and with reasonable expectations of risk to groundwater, shall request that the owner of an existing agricultural use located within a designated drinking water protection area develop and implement a ~~f~~F~~a~~r~~m~~ ~~e~~C~~o~~n~~s~~e~~r~~v~~a~~t~~i~~o~~n ~~p~~l~~a~~n.~~~~~~
- B. Where a ~~f~~F~~a~~r~~m~~ ~~e~~C~~o~~n~~s~~e~~r~~v~~a~~t~~i~~o~~n ~~p~~l~~a~~n has been requested, such plan shall be prepared in conformance with the Natural Resources Conservation Service - Field Office Technical Guide. The Department may solicit advice from the Thurston Conservation District with regard to consistency of a ~~f~~F~~a~~r~~m~~ ~~e~~C~~o~~n~~s~~e~~r~~v~~a~~t~~i~~o~~n ~~p~~l~~a~~n with the Technical Guide. Only those portions of the Farm Conservation Plan which are related to groundwater protection must be implemented to comply with this standard.~~~~~~~~~~~~
- C. The Farm Conservation Plan shall include the following:
1. A resource inventory which includes livestock types/numbers, soil types, surface water and groundwater issues and location of wells;₂
 2. ~~An approved~~ management plan for manure storage on site, or manure export off-site;
 3. Adequate setbacks from surface water and wells;₂
 4. Heavy use protection in confinement areas;₂ and
 5. A management plan that addresses if and when fertilizers, manure, pesticides and/or herbicides may be applied.

18.32.300 Important Habitats and Species - Purpose and Intent

In order to preserve and protect important habitats and ~~important~~ species which are known to occur in Thurston County and which may be found within the City of Olympia, and which are not already protected by another critical area category, appropriate protection ~~shall be provided on lands which lie within one thousand (1,000) feet of an important habitat or species location~~ shall be subject to the standards in OMC 18.32.305 through OMC 18.32.330. Protection in lake and marine shorelines is regulated under the City of Olympia Shoreline Master Program.

18.32.305 Important Habitats and Species - Applicability and Definition

"Important habitats and species" are habitats or species known to occur within Thurston County and which may be found within the City of Olympia and which are not receiving habitat protection by another critical area category (e.g. Streams, Wetlands, or Landslide Hazard Areas) in this Chapter and:

Exhibit A

- A. Are designated as endangered or threatened species identified under the Endangered Species Act; or
- B. ~~Are state designated endangered, threatened, or sensitive species identified by the Washington Department of Fish and Wildlife and the habitat primarily associated with those.~~ priority species identified on the Washington Department of Fish and Wildlife (WDFW) Priority Habitats and Species (PHS) List and their habitats of primary association. (Consult the state WDFW for the current PHS list); or
- C. Are areas in Olympia that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness.
- D. Small lakes, defined as naturally existing bodies of standing water less than twenty acres in size that exist on a year-round basis in a depression of land or expanded part of a stream and not defined as "Shorelines of the State" by RCW 90.58 (Shoreline Management Act), are considered an "important habitat." This term does not apply to constructed ponds.

~~18.32.310 Important Habitats and Species – Exempt, Prohibited, Administratively Authorized Uses, and Hearing Examiner Authorized Uses and Activities~~

~~Within one thousand (1,000) feet of an important habitat or important species location there are no specific limitations on uses and activities, except those imposed by the Department based upon its review of the Important Habitat and Species Management Plan provided in OMC 18.32.330.~~

18.32.315 Important Habitats and Species - Authority

- A. No development shall be allowed in an important habitat and species area where local, state or federally endangered, threatened or sensitive species have a primary association without approval from the Department. The Department may restrict the uses and activities of a development proposal, such as construction restrictions during breeding season, which lie within one thousand (1,000) feet of an important habitat or species location.
- B. The minimum performance standards ~~which will that~~ apply to a development proposal shall be those contained within provided by the Washington Department of Fish & Wildlife's Management Recommendations for Washington's Priority Habitat and Species Management Recommendations (1991), as amended, and the requirements in OMC 18.32.115, except as modified on the basis of the an Important Habitat and Species Management Plan described in OMC 18.32.330.

18.32.320 Important Habitats and Species – Buffers

Buffers shall be established on a case-by-case basis as described in an Important Habitats and Species Management Plan per OMC 18.32.325 and 18.32.330. The Department shall establish buffers for the habitat or species on a case-by-case basis, in consultation with the WDFW or others with expertise if needed, based on the critical area report outlined in OMC 18.32.115 and the WDFW management recommendations for Washington's priority habitats and species, if available. The buffers shall reflect the sensitivity of the specific habitat(s) and/or species to be protected.

~~18.32.325 Important Habitats and Species – Special Reports~~

~~When a development proposal lies within one thousand (1,000) feet of an important habitats and species location an Important Habitats and Species Management Plan shall be submitted by the applicant, provided the Department may waive the submittal when consultation with the Washington Department of Fish and Wildlife staff indicates that such a plan is not needed.~~

18.32.330 Important Habitats and Species - Management Plan

When a development proposal lies within an important habitats and/or species location, an Important Habitats and Species Management Plan shall be submitted by the applicant. The Department may waive the submittal when consultation with the Washington Department of Fish and Wildlife staff indicates that such a plan is not needed.

An Important Habitats and Species Management Plan shall:

- A. Identify how the development impacts from the proposed project will be mitigated. The Washington Department of Fish and Wildlife's Management Recommendations for Washington's Priority Habitat and Species Management Recommendations (1991), as amended, shall be the basis for this plan.
- B. Be prepared by a person who demonstrates sufficient experience and education as a wildlife biologist, habitat management consultant or botanist.
- C. Contain, but not be limited to:
 1. A description of the nature, density and intensity of the proposed development in sufficient detail to allow analysis of such land use change upon the important species and its habitat;
 2. An analysis of the effect of the proposed development, activity or land use change upon the important species and its habitat, based upon Washington Department of Fish and Wildlife management guidelines;

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3. A mitigation plan by the applicant which shall explain how any adverse impacts to the important species or its habitat created by the development will be minimized or avoided, such as:

- a. Establishment of buffer zones;
- b. Preservation of important plants and trees;
- c. Limitation of access;
- d. Seasonal restriction of construction and other activities; and
- e. Provisions for periodic review of the plan.

and

4. A map(s) to-scale, showing:

- a. The location of the proposed development site, to include a boundary survey;
- b. The relationship of the site to surrounding topographic features;
- c. The nature and density of the proposed development or land use change
- d. Proposed building locations and arrangements;
- e. Existing structures and landscape features including the name and location of all streams, ponds and other bodies of water;
- f. The extent and location of the important species habitat;
- g. A legend with: Title, scale and north arrows, and date, including revision dates if applicable.

18.32.400 Streams and ~~Important~~ Priority Riparian Areas - Purpose and Intent

In order to preserve the natural functions of streams and "~~important~~ priority riparian areas" by controlling siltation, minimizing turbidity, protecting nutrient reserves, maintaining stream flows, providing a source of large woody debris, preserving natural flood storage capacities, protecting fish bearing waters, preserving overhanging vegetation, providing groundwater recharge, and protecting the wildlife habitat associated with streams and intact riparian areas of marine and lake shorelines, all areas within three hundred (300) feet of such waters shall be subject to the standards in OMC 18.32.405 through OMC 18.32.445. (Note: Further information regarding development along marine shorelines, lakes over 20 acres in size, and streams can be found in the City's Shoreline Master Program).

18.32.405 Streams and ~~Important~~ Priority Riparian Areas - Applicability and Definition

A. "Streams" means an area where surface waters flow sufficiently to produce a defined channel or bed, i.e., an area which demonstrates clear evidence of the passage of water including but not limited to bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses unless they are used to convey streams naturally occurring prior to construction.

B. "~~Important~~ Priority Riparian Areas" means those marine and lake shorelines, as measured from the ordinary high water mark, in the following locations:

1. The eastern shore of Budd Inlet from the southern property line of Priest Point Park northward to the city limits;
2. The western shore of Budd Inlet (in the Port Lagoon) from 4th Avenue NW northward to the extension of Jackson Avenue NW, but not including the BNSF railroad causeway and trestle or their western or eastern shores; West Bay Drive NW; Olympic Way NW; and parcels west of the rights-of-way of West Bay Drive NW and Olympic Way NW;
3. The western shore of Budd Inlet (north of West Bay Drive) from the extension of 24th Avenue NW northward to the city limits, being approximately six hundred and fifty (650) feet from the end of the fill to the city limits;
4. The eastern shore of Capitol Lake (in the Middle Basin) from the extension of 13th Avenue SE (Olmsted Brothers Axis) southward to the right of way of Interstate 5;
5. The eastern shore of Capitol Lake (in the South Basin) from the right of way of Interstate 5 southward to the city limits; and
6. The western shore of Capitol Lake (in Percival Cove) from the intersection of Lakeridge Drive SW and Deschutes Parkway SW westward to the mouth of Percival Creek (a point due north of the terminus of Evergreen Park Court SW).

18.32.410 Streams and ~~Important~~ Priority Riparian Areas - Typing System

Streams are grouped into categories according to the Washington Department of Natural Resources Water Typing System. The criteria, definitions and methods for determining the water type of a stream are found in WAC 222-16-030 and 031, and the Stream Type Conversion Table below.

Exhibit A

STREAM TYPE CONVERSION TABLE

Stream Typing (per WAC 222-16-031)	Stream Typing (per WAC 222-16-030)
Type 1 stream	Type "S"
Type 2 stream	Type "F"
Type 3 stream	Type "F"
Type 4 stream	Type "Np"
Type 5 stream	Type "Ns"

A. "Type 1S streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-~~030~~ and 031, as a Type 1S Water and those inventoried as "Shorelines of the State" under the Shoreline Master Program for the Thurston Region (1990), TCC 19.04, pursuant to RCW Chapter ~~90.58~~. Type 1S streams contain salmonid fish habitat.

B. "Type 2E streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-~~030~~ and 031, as a Type 2E Water. Type 2E streams contain salmonid fish habitat.

~~C. "Type 3 streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030 and 031, as a Type 3 Water. Type 3 streams contain salmonid fish habitat.~~

~~D. "Type 4Np streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-~~030~~ and 031, as a Type 4Np Water. Type 4Np streams do not contain salmonid fish habitat.~~

~~E. "Type 5Ns streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-~~030~~ and 031, as a Type 5Ns Water. These streams are areas of perennial or intermittent seepage, and ponds and drainage ways having short periods of spring or storm runoff. Type 5Ns streams do not contain salmonid fish habitat.~~

E. Waters having any of the following characteristics are presumed to have fish use:

Exhibit A

1. Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington, and having a gradient of 16 percent or less;

2. Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington, and having a gradient greater than 16 percent and less than or equal to 20 percent, and having greater than 50 acres in contributing basin size based on hydrographic boundaries;

3. Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to a fish stream;

4. Ponds or impoundments having a surface area greater than 0.5 acre at seasonal low water.

~~18.32.415 Streams and Important Riparian Areas – Prohibited Alterations~~

~~The following alterations or commencement of the following activities shall be prohibited within a stream or "important riparian area" and its associated buffer, except as specified in 18.37.070, 18.32.420 Exempt Uses and Activities, 18.32.425 – Administratively Authorized Uses and Activities, or 18.32.430 Hearing Examiner Authorized Uses and Activities:~~

~~Any human action which changes the existing condition including, but not limited to:~~

~~A. Grading;~~

~~B. Dredging;~~

~~C. Channelizing;~~

~~D. Cutting;~~

~~E. Clearing;~~

~~F. Filling;~~

~~G. Paving;~~

~~H. Building of structures;~~

~~I. Demolition of structures;~~

~~J. Relocating or removing vegetation;~~

~~K. Introduction of invasive plant species;~~

Exhibit A

- ~~L. Application of herbicides, pesticides, or any hazardous or toxic substance;~~
- ~~M. Discharging pollutants;~~
- ~~N. Grazing domestic animals;~~
- ~~O. Modifying for surface water management purposes; or~~
- ~~P. Any other human activity that changes the existing vegetation, hydrology, wildlife, or wildlife habitat.~~

18.32.420 Streams and ~~Important~~ Priority Riparian Areas - Exempt Uses and Activities

In addition to the exemptions in OMC 18.32.111, the following activities shall be exempt from the review requirements of this Chapter:

- A. Activities within an Improved Right-of-Way, except those activities that alter a stream or wetland, such as a bridge or culvert, or result in the transport of sediment or increased stormwater.
- B. Forest Practices Class I, II, and III, as defined in and conducted pursuant to the provisions of RCW 76.09.050, as amended.
- C. Construction and/or maintenance of a trail in the stream buffer, four (4) feet or less in width, not paved, and involving less than fifty (50) cubic yards of cut or fill.
- ~~D. Non-commercial Signs Associated with streams or "important riparian areas," including interpretive signs, Critical Area boundary signs, and survey markers.~~
- ~~E. Normal Maintenance or Repair.~~
- ~~F. Passive Recreation Activities.~~

18.32.425 Streams and ~~Important~~ Priority Riparian Areas - Administratively Authorized Uses and Activities

After evaluation and consideration of mitigation sequencing requirements in OMC 18.32.135, the Department may authorize the following uses and activities within a stream or "~~important~~ priority riparian area" or its buffer following guidelines in OMC 18.32.115 and OMC 18.32.125 and provided that appropriate erosion control best management practices are implemented during construction (if applicable) and any areas cleared of vegetation are replanted with native species:

- ~~A. Bank Stabilization.~~ Bank stabilization may be ~~an~~ allowed on a case-by-case basis when needed to protect the following:

Exhibit A

1. An existing structure where relocation of the structure away from the channel is not feasible within the same parcel, or
2. The pier or foundation of ~~either~~ a railroad, road, or trail.

Bioengineering (the use of plant materials to stabilize eroding stream channels and banks) shall be employed when possible in lieu of designs which contain rip rap or concrete revetments.

B. Beach or ~~S~~shoreline ~~A~~access.

C. Dock/~~F~~float.

D. ~~Fencing~~The Department shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the Department shall condition any permit or authorization issued pursuant to this Chapter to require the applicant to install a permanent fence, as described in OMC 18.32.145 at the edge of the critical area or buffer, when fencing will prevent future impacts to the critical area.

The applicant shall be required to install a permanent fence around the critical area or buffer when domestic grazing animals are present or may be introduced on site.

Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

E. ~~Forest Practices~~. Forest practices may be allowed pursuant to the provisions of OMC 16.60 and RCW 76.09.050, as amended.

F. ~~Minor Enhancement~~. Minor enhancement projects may be allowed for streams or stream buffers not associated with any other development proposal in order to enhance stream functions. Such enhancement shall be performed by a qualified professional, as defined in OMC 18.02.180, under the direct supervision of a fisheries biologist according to a plan approved by the department for the design, implementation, maintenance and monitoring of the project. ~~prepared by a civil engineer and a fisheries biologist with experience preparing riparian enhancement reports.~~

G. ~~Minor Restoration~~. Minor restoration project may be allowed when the minor stream restoration projects for fish habitat enhancement ~~when is~~ conducted by a public agency whose mandate includes such work and when the work is not associated with mitigation of a specific development proposal and does not ~~to~~ exceed twenty-five thousand (\$25,000) dollars in cost. Such projects are limited to placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements and shall involve use of hand labor and light equipment only.

H. ~~Nondevelopment Educational Activities and Scientific Research~~.

Exhibit A

~~I. Noxious Weed Control.~~

~~JH. Road/Street - Expansion of Existing Corridor and New Facilities.~~

1. Crossings of streams shall be avoided to the extent possible;
2. Bridges or open bottom culverts shall be used for crossing of ~~Types 1-3~~ S and F streams;
3. Crossings using culverts shall use super span or oversize culverts;
4. Crossings shall be constructed and installed between June 15th and September 15th;
5. Crossings shall not occur in salmonid spawning areas;
6. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative exists;
7. Crossings shall not diminish flood carrying capacity; and
8. Crossings shall serve multiple properties/purposes whenever possible.

~~KI. Stormwater Facilities.~~ Stormwater facilities may be allowed ~~only in the outer half of~~ Types 4Np and 5Ns stream buffers, ~~and~~ only when:

1. The facility ~~does not exceed~~ is located in the outer twenty-five (25) percent of the buffer on site; ~~and~~
2. The functions of the buffer and the stream are not significantly adversely impacted; and.
3. Habitat for anadromous fish will not be adversely impacted.

J. Stormwater retrofit facilities may be allowed in Types S, F, Np, and Ns stream buffers.

~~LK.~~ Trail construction or maintenance of a trail located immediately adjacent to a stream or "~~important~~ priority riparian area," greater than four (4) feet wide, with a paved surface, and/or involving more than fifty (50) cubic yards of cut or fill, but only when the Department determines that there are no practicable or reasonable alternatives.

1. Public and private trails and trail-related facilities such as picnic tables, benches, interpretive centers and signs, viewing platforms and campsites shall be allowed, but use of impervious surfaces shall be minimized.

Exhibit A

2. Trail planning, construction, and maintenance shall adhere to the following additional criteria:
 - a. Trails and related facilities shall, to the extent feasible, be placed on previously disturbed areas such as: existing or abandoned levees, or road, railroad, or utility corridors; and
 - b. Trails and trail related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat.

~~ML~~. Utility lines may be allowed within streams or "~~important~~-priority riparian area" and their buffers when it is demonstrated that:

1. There are no practicable upland alternatives for the utility corridor;
2. The corridor alignment follows a path of least impact to the functions of the stream and buffer including maintaining and protecting the hydrologic and hydraulic functions of wetlands and streams;
3. The corridor avoids cutting trees greater than six (6) inches in diameter at breast height when possible; and
4. Any access to the corridor for maintenance is provided as much as possible at specific points rather than by parallel roads.

M. Emergency actions as provided in OMC 18.362.165+.

18.32.430 Streams and ~~Important~~-Priority Riparian Areas - Hearing Examiner Authorized Uses and Activities

~~After review~~As provided for in OMC 18.32.130, the Hearing Examiner may authorize the following uses and activities within a stream or "~~important~~-priority riparian area" or its buffer:

- A. ~~Bank Stabilization. The Department may allow b~~Bank stabilization when the design is consistent with the ~~Integrated Streambank Protection Guidelines (2002), published by the Washington State Aquatic Habitat Guideline Program~~Washington Department of Fish and Wildlife Integrated Streambank Protection Guidelines (Cramer et al., 2002), as amended or revised.
- B. ~~Stormwater Facilities. The Department may allow s~~Stormwater facilities in the outer half of Types ~~1, 2S~~ and ~~3-F~~ stream buffers subject to the performance standards in OMC 18.32.425(~~K~~), and in the buffer of Types ~~4-Np~~ and ~~5Ns~~ streams provided that the facility will have a net positive benefit on the functions of the stream and its buffer and habitat for anadromous fish will not be adversely impacted.
- C. Stream Relocation.

Exhibit A

1. Streams which support salmonids shall not be relocated except as necessitated by public road projects which have been identified as a "public project of significant importance."
2. Streams may be relocated under a mitigation plan or restoration for the purpose of enhancement of in-stream resources and/or appropriate floodplain protection. Such relocations shall include:
 - a. The natural channel dimensions replicated, including substantially identical depth, width, length and gradient at the original location and the original horizontal alignment (meander lengths);
 - b. Bottom restored with identical or similar materials;
 - c. Bank and buffer configuration to as close as feasible to the original and/or natural conditions;
 - d. Channel, bank and buffer areas replanted with native vegetation which replicates the original in species, size and densities; and
 - e. Recreation of the original and/or natural habitat value.
3. An applicant must demonstrate, based on information provided by a civil engineer and a qualified biologist, that:
 - a. The equivalent base flood storage volume and function will be maintained;
 - b. There will be no adverse impact to groundwater;
 - c. There will be no increase in velocity;
 - d. There will be no interbasin transfer of water;
 - e. Performance standards as set out in the mitigation plan will be met;
 - f. The relocation conforms to other applicable laws; and
 - g. All work will be carried out under the direct supervision of a qualified biologist.

18.32.435 Streams and ~~Important~~ Priority Riparian Areas - Buffers

A. Buffers shall be required as set forth for each stream type or "priority riparian area." The required buffers shall be delineated, both on a site plan or plat and on the property, prior to approval of any regulated activity.

Exhibit A

B. The required buffer shall be extended to include any adjacent regulated wetland(s), landslide hazard areas and/or erosion hazard areas and required buffers.

C. Stream buffers shall be based on the water type classification as established by the Department of Natural Resources Stream Typing Classification System and required by OMC 18.32.410. The table below includes detail differentiating stream types based on fish habitat presence, stream widths, and mass wasting potential:

<u>Stream Type and Description</u>	<u>Buffer</u>
<u>Type S – Shorelines of the State</u>	<u>250 feet</u>
<u>Type F streams greater than 5 feet wide (bankfull width) that provide habitat for fish</u>	<u>250 feet</u>
<u>Type F streams less than 5 feet wide (bankfull width) that provide habitat for fish</u>	<u>200 feet</u>
<u>Type Np and Ns streams (no fish habitat) with high mass wasting potential</u>	<u>225 feet</u>
<u>Type Np and Ns streams (no fish habitat) without high mass wasting potential</u>	<u>150 feet</u>

1. Stream buffers shall be measured on a horizontal plane, outward from the ordinary high water mark (OHWM) on each side of the stream. (See Figure 32-1).

2. For streams that occur within ravines (which are not designated as a landslide hazard area) and where the standard buffer extends onto a slope of 30% or greater that is at least 10 feet in height, the buffer shall extend a minimum of 25 feet beyond the top of the slope to protect the stream channel from sediment loading from mass wasting events (e.g., landslides, earth/debris flows and slumps, and rock falls/earth topples) and reduce the risk to structures and human safety.

Exhibit A

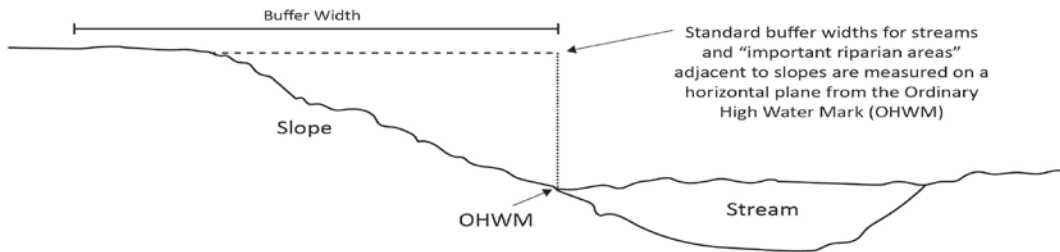


FIGURE 32-1

A. For streams maintain the existing vegetation along both sides of a stream channel to whichever distance is greater:

1. In ravines greater than ten (10) feet in depth, the existing vegetation within the ravine and within a strip fifty (50) feet from the top of the slope (refer to Figure 3).

2. Where there is no ravine or where a ravine is less than ten (10) feet in depth, the existing vegetation on both sides of the stream for the distance set forth below for the applicable stream type, using the stream rating system in OMC 18.32.410 (refer to Figure 2):

- a. Type 1 and 2 streams: 250 feet,
- b. Type 3 streams: 200 feet,
- c. Type 4 and 5 streams: 150 feet.

BD. Maintain a buffer of existing vegetation for "important-priority riparian areas:" as defined in OMC 18.32.405.

1. 250 feet along the eastern shore of Budd Inlet from the southern property line of Priest Point Park northward to the city limits;

2. 200 feet along the western shore of Budd Inlet (in the Port Lagoon) from 4th Avenue NW northward to the extension of Jackson Avenue NW, but not including the BNSF railroad causeway and trestle or their western or eastern shores, West Bay Drive NW, Olympic Way NW, and parcels west of the rights-of-ways of West Bay Drive NW and Olympic Way NW;

Exhibit A

3.—150 feet along the western shore of Budd Inlet (north of West Bay Drive) from the extension of 24th Avenue NW northward to the city limits, being approximately six hundred and fifty (650) feet from the end of the fill to the city limits;

4.—250 feet along the eastern shore of Capitol Lake (in the Middle Basin) from the extension of 13th Avenue SE (Olmsted Brothers Axis) southward to the right of way of Interstate 5;

5.—250 feet along the eastern shore of Capitol Lake (in the South Basin) from the right of way of Interstate 5 southward to the city limits; and

6.—250 feet along the western shore of Capitol Lake (in Percival Cove) from the intersection of Lakeridge Drive SW and Deschutes Parkway SW westward to the mouth of Percival Creek (a point due north of the terminus of Evergreen Park Court SW).

C.—All stream and "important riparian area" buffers shall be measured from the ordinary high water mark.

~~DE.~~ The stream or "important priority riparian area" buffer widths contained in OMC 18.32.435 ~~AC and B~~ presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. If the vegetation and other buffer elements are inadequate, then the buffer shall be planted ~~to~~ with a density and species composition ~~a density~~ of four hundred (400) tree units per acre pursuant to OMC 16.60 and with an understory of native plants commonly found in comparable but healthy riparian areas of Thurston County and as approved by the City of Olympia Urban Forester.

E.—The Department may allow modification of the required stream buffer width by averaging buffer widths. Averaging of buffer widths, which can include the shifting the buffer from one side of the stream to the opposite bank, may be allowed in accordance with a Biological Assessment described in OMC 18.32.445 only if:

1.—It will not reduce stream functions or values;

2.—The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer;

3.—The buffer width is not reduced by more than twenty-five percent (25%) of the required width; and

4.—The stream buffer has been placed in a critical areas tract or a conservation easement.

F. The Department may reduce the required stream or "important priority riparian area" buffer widths up to twenty five percent (25%) on a case-by-case basis in accordance with a Biological Assessment described in OMC 18.32.445 when it can be demonstrated that:

Exhibit A

1. The existing buffer area is not a high functioning buffer but instead is currently providing reduced functions due to existing land uses or previous alterations ~~well-vegetated with native species, as described in OMC 18.32.435-D;~~
2. Protection of the stream or "~~important~~ priority riparian area" buffer using a fence and sign have been provided, as described in OMC 18.32.145;
3. Topographic conditions of the site and the buffer are protective of the stream;
4. The intensity and type of the land uses adjacent to the buffer will minimize potential adverse impacts upon the stream and wildlife habitat; [e.g., publicly owned parks, designated open space areas in plats and binding site plans, or lands with a recorded conservation easement];
5. The site design and building layout will minimize potential adverse impacts upon the stream and wildlife habitat; ~~and~~
6. The smaller buffer will be adequate to protect the functions of the stream based on the best available science-; and
7. Alternative mitigation measures as provided in "Land Use Planning for Salmon, Steelhead and Trout: A Land planner's guide to salmonid habitat protection and recovery," Washington Department of Fish and Wildlife, 2009, have been proposed by the applicant and approved by the Department.

G.—~~The Department may vary from the provisions of OMC 18.32.435-B up to fifty percent (50%) for Type 5 streams which have no fish usage and which discharge directly into Puget Sound when:~~

- 1.—~~A substantial buffer of native vegetation exists, or~~
- 2.—~~The buffer has been replanted to a density of four hundred (400) tree units per acre pursuant to OMC 16.60 including an understory of native plants commonly found in riparian areas of Thurston County, and~~
- 3.—~~Conservation measures have been taken to ensure the long-term protection of the stream buffer, such as those as described in OMC 18.32.435(F)(4).~~

H.—~~The Hearing Examiner may allow reductions greater than those described in OMC 18.32.435(F) & (G) to the required stream or "important riparian area" buffer width in unique conditions and on a case-by-case basis when it can be demonstrated that:~~

- 1.—~~The provisions of the required stream or "important riparian area" have been evaluated by a Biological Assessment described in OMC 18.32.445, and~~

Exhibit A

2.—Based upon the Biological Assessment and the best available science the proposed stream buffer width will be adequate to protect the functions of the stream or "important riparian area."

4G. If a stream segment is removed from a culvert it will not be required to meet the stream buffer requirements of OMC 18.32.435. It shall comply with the purpose and intent of this title to the degree possible, as determined by the Department.

4H. The required stream buffer widths shall be increased when the Department determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the stream and/or to protect habitat corridors between streams and other habitats.

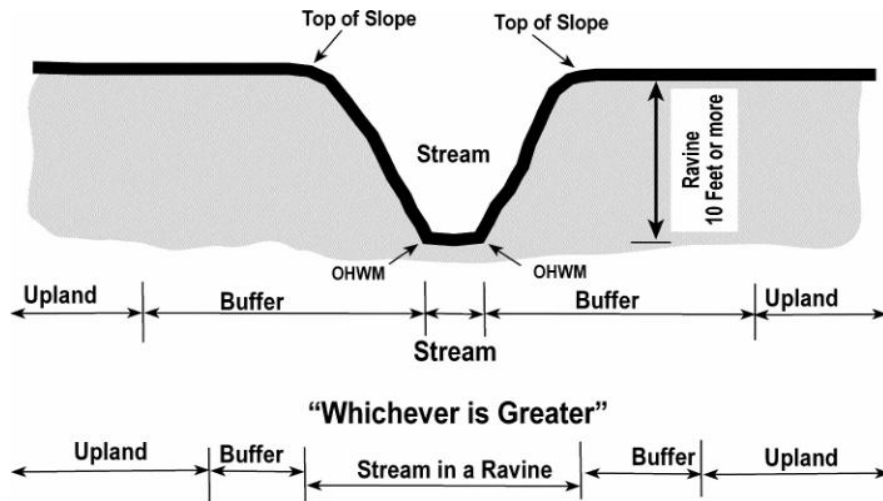


FIGURE 2

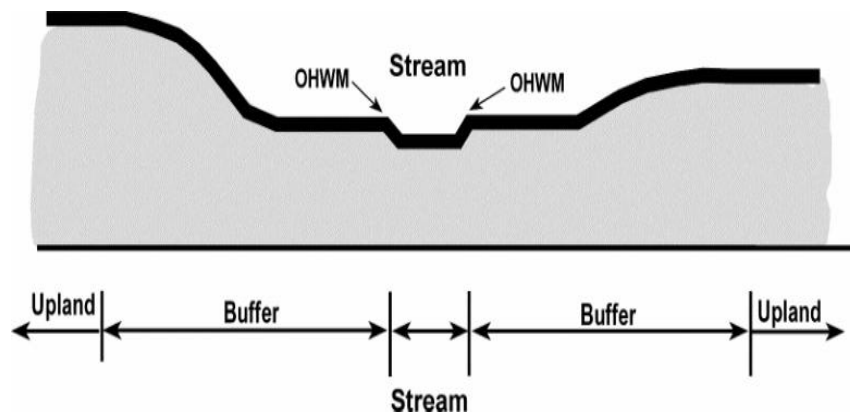


FIGURE 3

18.32.440 Streams and ~~Important~~ Priority Riparian Areas - Special Reports

- A. Every application for development within a stream, or "~~important~~ priority riparian area" or ~~their~~ its buffer shall include a drainage and erosion control plan and a grading plan.
- B. For applications which propose a reduction of the buffer pursuant to OMC 18.32.435(F) ~~and (G)~~, or for uses and activities which require Hearing Examiner authorization in OMC 18.32.430, a Biological Assessment shall be submitted.

18.32.445 Streams and ~~Important~~ Priority Riparian Areas - Biological Assessment

- A. Depending upon the species of salmon, the preparation of a Biological Assessment shall follow the provisions of:
1. National Marine Fisheries Service, 1996. Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Watershed Scale. National Marine Fisheries Service, Environmental and Technical Services Division, Habitat Conservation Division, Portland, Oregon, or
 2. U.S. Fish and Wildlife Service, 1998. A Framework to Assist in Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Bull Trout Subpopulation Watershed Scale (draft). Prepared by United States Fish and Wildlife Service (adapted from the National Marine Fisheries Service).
- B. The Biological Assessment shall be prepared by a ~~person who has sufficient experience and education in fish biology, as determined by the Department~~ qualified professional as defined in OMC 18.02.

18.32.500 Wetlands ~~and Small Lakes~~ - Purpose and Intent

In order to protect the natural function of wetlands and "~~small lakes~~" for floodwater storage, floodwater conveyance, sediment control, pollution control, surface water supply, aquifer recharge, wildlife habitat, and recreation, those lands with wetlands ~~and "small lakes"~~ or which lie within three hundred (300) feet of wetlands ~~and "small lakes"~~ shall be subject to the standards in OMC 18.32.100(L) and OMC 18.32.505 through OMC 18.32.595.

18.32.505 Wetlands ~~and Small Lakes~~ - Definition

~~A.~~—"Wetlands" means areas that are inundated or saturated by surface water or ground water 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,

Exhibit A

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.

~~B. "Small Lakes" means naturally existing bodies of standing water less than twenty acres in size, which exist on a year-round basis in a depression of land or expanded part of a stream and not defined as "Shorelines of the State" by RCW 90.58 (Shoreline Management Act). This term does not apply to constructed ponds.~~

18.32.510 Wetlands and Small Lakes- Rating System

A. The Washington State Wetland Rating System for Western Washington (~~2004~~2014 update) as amended or revised, shall be used to determine if the wetland is a Category I, II, III or IV wetland. These documents contain the criteria, definitions and methods for determining if the criteria below are met.

1. ~~Category I:~~ Category I wetlands are (1) relatively undisturbed estuarine wetlands larger than 1 acre; (2) wetlands with high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than 1 acre; (5) wetlands in coastal lagoons; (6) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.~~those that 1) represent a rare wetland type; 2) are highly sensitive to disturbance; 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; 4) provide a very high level of functions; or are designated as high value wetlands of local significance.~~

2. ~~Category II:~~ Category II wetlands are (1) estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre; (2) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; or (3) wetlands with a moderately high level of functions (scoring between 20 and 22 points).~~those that 1) are sensitive to disturbance; 2) are difficult to replicate; 3) wetlands with a moderately high level of functions or are designated as wetlands of local significance. These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a high level of protection.~~

3. ~~Category III:~~ Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands. ~~These wetlands generally have been altered in some ways, or are smaller, less diverse and/or more isolated in the landscape than Category~~

Exhibit A

~~II wetlands. For the purpose of this chapter, all "small lakes" shall be considered to be Category III wetlands.~~

4. ~~Category IV.~~ Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree, and often have been heavily altered. These are wetlands where it may be possible to replace, and in some cases be able to improve. These wetlands do provide some important functions, and should to some degree be protected.

B. Wetland rating categories shall be applied as the wetland exists on the date of application. However, wetland ratings shall not recognize alterations resulting from illegal activities.

18.32.515 Wetlands and Small Lakes - Small Wetlands

A. Wetlands ~~and "small lakes"~~ less than one thousand (1,000) square feet shall be exempt from the requirements of OMC 18.32.135.A; wetland buffers in OMC 18.32.535, compensation projects in OMC 18.32.545 and replacement ratios in OMC 18.32.550 provided that the wetland or pond:

- ~~1.~~ 1. Is an isolated Category III or IV wetland;
- ~~2.~~ 2. Is not associated with a riparian corridor;
- ~~3.~~ 3. Is not part of a wetland mosaic; and
- ~~4.~~ 4. Does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife.

B. Wetlands ~~and "small lakes"~~ between one thousand (1,000) and four thousand (4,000) square feet shall be exempt from the requirements of OMC 18.32.135.A, provided that the wetland ~~or small lake~~:

1. Is rated as a Category III or IV wetland,
2. Is not associated with a riparian corridor,
3. Is not part of a wetland mosaic,
4. Does not score ~~20~~ 5 points or greater for habitat in the Washington State Wetland Rating System for Western Washington (~~2004~~ 2014),

Exhibit A

5. Does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife, and
6. A wetland mitigation report is provided as required by OMC 18.32.590.

~~18.32.518 Wetlands and Small Lakes – Prohibited Alterations~~

~~The following alterations or commencement of the following activities are prohibited within a wetland and its associated buffer, except as specified in OMC 18.37.070, 18.32.520 – Exempt Uses and Activities, OMC 18.32.525 – Administratively Authorized Uses and Activities, or OMC 18.32.530 – Hearing Examiner Authorized Uses and Activities:~~

~~Any human action which changes the existing condition including but not limited to:~~

- ~~A. — Grading;~~
- ~~B. — Dredging;~~
- ~~C. — Channelizing;~~
- ~~D. — Cutting;~~
- ~~E. — Clearing;~~
- ~~F. — Filling;~~
- ~~G. — Paving;~~
- ~~H. — Building of structures;~~
- ~~I. — Demolition of structures;~~
- ~~J. — Relocating or removing vegetation;~~
- ~~K. — Introduction of invasive plant species;~~
- ~~L. — Application of herbicides, pesticides, or any hazardous or toxic substance;~~
- ~~M. — Discharging pollutants;~~
- ~~N. — Grazing domestic animals;~~
- ~~O. — Modifying for surface water management purposes; or~~

Exhibit A

~~P. Any other human activity that changes the existing vegetation, hydrology, wildlife, or wildlife habitat.~~

18.32.520 Wetlands and Small Lakes - Exempt Uses and Activities

In addition to the exemptions in OMC 18.32.111, the following activities shall be exempt from the review requirements of this Chapter:

A. Activities within an ~~Improved Right-of-Way~~, except those activities that alter a stream or wetland, such as a bridge or culvert, or result in the transport of sediment or increased stormwater.

B. Forest Practices Class I, II, and III, as defined in and conducted pursuant to the provisions of RCW 76.09.050, as amended.

C. Construction and/or maintenance of a trail in the wetland buffer, four (4) feet or less in width, not paved, and involving less than fifty (50) cubic yards of cut or fill.

~~D. Non-commercial Signs Associated with wetlands, including interpretive signs, Critical Area boundary signs, and survey markers.~~

~~E. Normal Maintenance or Repair.~~

~~F. Passive Recreation Activities.~~

18.32.525 Wetlands and Small Lakes - Administratively Authorized Uses and Activities

The following uses and activities may be authorized within a wetland or its buffer after an evaluation by the Department following the provisions in OMC 18.32.115 and OMC 18.32.125.

A. Beach or ~~S~~shoreline ~~A~~access.

B. Dock/~~F~~loat in Category III and IV ~~W~~wetlands only.

C. Compensation ~~M~~itigation ~~S~~ite in Category III and IV Wetlands only, and the buffer only of Category II ~~W~~wetlands.

D. ~~Fencing~~If fencing is necessary to protect the functions and values and/or to prevent future impacts of the critical area, the Department shall condition any permit or authorization issued pursuant to this Chapter to require the applicant to install a permanent fence, as described in OMC 18.32.145, at the edge of the critical area or buffer.

The applicant shall be required to install a permanent fence around the critical area or buffer when domestic grazing animals are present or may be introduced on site.

Exhibit A

Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

E. ~~Forest Practices~~: Forest practices may be allowed pursuant to the provisions of OMC 16.60 and RCW 76.09.050, as amended, in Category III and IV ~~W~~wetlands.

F. ~~Minor Enhancement~~: Minor enhancement may be allowed of wetlands or wetland buffers not associated with any other development proposal in order to enhance wetland functions, as determined by the Department and any state agency or tribal entity with jurisdiction. Such enhancement shall be performed under a plan for the design, implementation, maintenance and monitoring of the project prepared by a ~~civil engineer and a fisheries biologist with experience preparing riparian enhancement reports, under the direct supervision of a wetland scientist~~ qualified professional, as defined in OMC 18.02.180.

G. ~~Minor Restoration~~: Minor ~~R~~estoration may be allowed but shall be limited to Category II, III and IV ~~W~~wetlands and the buffer of Category I ~~W~~wetlands.

H. ~~Noxious Weed Control~~

I. ~~Nondevelopment Educational Activities and Scientific Research~~

J. ~~Road/Street Expansion of Existing Corridor and New Facilities in Category III and IV W~~wetlands only as follows:

1. Crossings of wetlands or other critical areas shall be avoided to the extent to the extent possible
2. Crossing of wetlands shall follow all applicable local, state and federal laws and the following criteria to ensure the least impact to wetlands:
 - a. ~~3.~~ Bridge-type structures are required for new crossings of wetlands;
 - b. ~~4.~~ Crossings using culverts shall use super span or oversize culverts.
 - c. ~~5.~~ Crossings shall be constructed and installed during periods of time when there will be the least impact on the adjacent fish and wildlife habitat;
 - ~~6.~~ Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;
 - d. ~~7.~~ Crossings shall not diminish flood carrying capacity;
 - e. ~~8.~~ Crossings shall provide for maintenance of culverts, bridges and utilities; and

Exhibit A

~~f.~~ 9.—Crossings shall serve multiple properties whenever possible.

~~K.~~ Stormwater Facilities may be allowed ~~only in the outer half of in~~ Category III and IV wetland buffers ~~only,~~
~~and only~~ when:

1. The facility ~~does not exceed~~ is located in the outer twenty-five (25) percent of the buffer on site;
and
2. The location of such facilities will not degrade or have a significant, adverse impact on the functions or values of the wetland or buffer.

J. Stormwater retrofit facilities may be allowed in Category I, II, III and IV wetland buffers provided the facility does not negatively impact the wetland's functions or values.

~~L.~~ Trail construction or maintenance of a trail greater than four (4) feet wide, with a paved surface, and/or involving more than fifty (50) cubic yards of cut or fill located in a Category II, III or IV wetland, but only when the department has determined that there are no practicable or reasonable alternatives:

1. Public and private trails and trail-related facilities, (such as picnic tables, benches, interpretive centers and signs and, viewing platforms and campsites) shall be allowed, but use of impervious surfaces shall be minimized.
2. Trail planning, construction and maintenance shall adhere to the following additional criteria:
 - a. Trails and related facilities shall, to the extent feasible, be placed on previously disturbed areas such as: existing or abandoned levees, or road, railroad, or utility corridors; and
 - b. Trails and trail related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat.

~~M.~~ Utility lines may be allowed within Category II, III and IV wetlands and their buffers when it is demonstrated that:

1. There are no practicable upland alternatives for the utility corridor;
2. The corridor alignment follows a path of least impact to the functions of the stream and buffer critical areas including maintaining and protecting the hydrologic and hydraulic functions of wetlands and streams;
3. The utility provider avoids cutting trees in the corridor greater than six (6) inches in diameter at breast height when possible; and

Exhibit A

4. Any access to the corridor for maintenance is provided as much as possible at specific points rather than by parallel roads.

~~NM.~~ Wildlife Blind.

N. Emergency actions as provided in OMC 18.32.165.

18.32.530 Wetlands and Small Lakes- Hearing Examiner Authorized Uses and Activities

The following uses and activities may be authorized within a wetland or its buffer after a review by the Hearing Examiner as provided in OMC 18.32.130:-

- A. Communication Towers in the buffers of Category III and IV ~~W~~wwetlands only.
- B. Compensation ~~M~~mitigation ~~S~~site in Category II ~~W~~wwetlands only.
- C. Dock/~~F~~float in Category II ~~W~~wwetlands only.
- D. Road/~~S~~street only:
 - 1. In Category II wetlands subject to the performance standards ~~for Road/Street Expansion of Existing Corridor and New Facilities~~ in OMC 18.32.525(~~JH~~).
 - 2. In Category I wetlands subject to the performance standards ~~for Road/Street Expansion of Existing Corridor and New Facilities~~ in OMC 18.32.525(~~JH~~), and being processed as a "public project of significant importance."
- E. Stormwater Facilities in Category III or IV wetlands only, and in the outer half only of a Category II standard wetland buffer, provided that if the placement of such a facility in a wetland results in elimination of an area's wetland status, then mitigation will be required to compensate for the loss of that wetland as provided in OMC 18.32.550.
- F. Trail construction or maintenance of a trail greater than four (4) feet wide, with a paved surface, and/or involving more than fifty (50) cubic yards of cut or fill located in a Category I wetland, but only when the Hearing Examiner has determined that there are no practicable or reasonable alternatives. Trails shall be subject to the performance standards for ~~T~~trails in OMC 18.32.525(~~LK~~).
- G. Utility Facility only in Category I, II, III and IV wetlands.

18.32.535 Wetlands and Small Lakes - Wetland Buffers

A. Wetlands buffer areas shall be maintained between all regulated activities and wetlands to retain the wetland's natural functions and values. The required width of the wetland buffer shall be determined as provided in the tables below. Wetland buffers are based upon the rating of the wetland pursuant to OMC 18.32.585575.

B. The required width of the wetland buffer shall be determined as provided in the table below.

Table ~~X32-1~~: Wetland Buffer Widths

Wetland Characteristics	Wetland Buffer Width
Natural Heritage Wetlands	Not less than 250 feet
Bogs	Not less than 250 feet
Estuarine - Category I	250 feet
Estuarine - Category II	150 feet
Habitat score: 31 pts and more <u>3 pts</u>	300-100 feet
Habitat score: 30-4 <u>pts</u>	280-100 feet
Habitat score: 29-5 <u>pts</u>	260-140 feet
Habitat score: 28-6 <u>pts</u>	240-180 feet
Habitat score: 27-7 <u>pts</u>	220 feet
Habitat score: 26-8 <u>pts</u>	200-260 feet
Habitat score: 25-9 <u>pts</u>	180-300 feet
Habitat score: 24 <u>pts</u>	160 feet
Habitat score: 23 <u>pts</u>	140 feet
Habitat score: 22 <u>pts</u>	120 feet
Habitat score: 21 <u>pts</u>	100 feet
Habitat score: 20 <u>pts</u>	100 feet
Habitat score: 19 <u>pts</u>	100 feet
Water Quality Improvement Score: 24-8 - 32-9 <u>pts</u> , and Habitat score: 19 <u>4</u> pts or less	100 feet
Category I or II Wetland - Not meeting any of the above criteria	100 feet
Category III Wetland - Not meeting any of the above criteria	80 feet

Exhibit A

Table ~~32-1~~: Wetland Buffer Widths

Wetland Characteristics	Wetland Buffer Width
Category IV Wetland - Score for all three wetland functions is less than 30 <u>16</u> pts	50 feet

- C. All wetland buffers shall be measured from the wetland boundary.
- D. The wetland buffer widths contained in OMC 18.32.535(B) ~~Table 32-1~~ presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation and other buffer elements are inadequate, then the buffer shall be planted ~~to a density of four hundred (400) tree units per acre~~ with native trees to a density common in the specific buffer area and ~~pursuant to OMC 16.60 including~~ an understory of native plants commonly found in riparian areas of Thurston County.
- E. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.
- F. The Department may allow modification of the required wetland buffer width by either allowing a reduction pursuant to OMC 18.32.535(G) or by allowing averaging of buffer widths when all of the following conditions are met:
1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower rated area,
 2. 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,
 3. The total area of the buffer after averaging is equal to the area required without averaging, and
 4. The buffer at its narrowest point is never less than seventy five percent (75%) of the required width.
- G. If buffer averaging has not been used, ~~the~~ Department may reduce the required wetland buffer widths by twenty five percent (25%) under the following conditions:
1. For wetlands that score ~~twenty five (205)~~ twenty five (205) points or more for the habitat functions, if both of the following criteria are met:

Exhibit A

a. A relatively undisturbed, vegetated corridor at least one hundred (100) feet wide is protected between the wetland and any other priority habitats as defined by the Washington State Department of Fish and Wildlife. The corridor must be protected for the entire distance between the wetland and the priority habitat by legal protection such as a conservation easement.

b. Measures to minimize the impacts of different land uses on wetlands, such as those described on Table 8c-11, Appendix 8-C, of Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands (2005) Ecology publication #05-06-008, as amended or revised, are applied. Examples of these measures include directing lighting away from wetland, locating noise generating activities away from the wetland, and densely planting the buffer to act as barrier to pets and human disturbance.

2. For wetlands that score ~~nineteen-four (194)~~ points or less for habitat function, apply the provisions of OMC 18.32.535(G)(1)(b).

~~H. The Hearing Examiner may allow:~~

~~1. Reductions to the required wetland buffer width greater than those described in OMC 18.32.535-G on a case-by-case basis when it can be demonstrated that:~~

~~a. The provisions of OMC 18.32.535(G) have been evaluated by a Wetland Mitigation Report described in OMC 18.32.590, and~~

~~b. The proposed wetland buffer width will protect the wetlands' functions and values based upon the Wetland Mitigation Report and the best available science.~~

~~2. Buffer averaging up to fifty percent (50%) of the required width, except for a Category IV wetland, when it can be demonstrated that:~~

~~a. It will not reduce wetland functions or values according to a Wetland Mitigation Report described in OMC 18.32.590;~~

~~b. Measures to minimize the impacts of different land uses on wetlands, such as those described on Table 8c-11, Appendix 8-C, of Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands (2005) Ecology publication #05-06-008, as amended or revised, are applied;~~

~~c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and~~

~~d. The wetland buffer has been placed in a critical areas tract or a conservation easement.~~

Exhibit A

H. The Department or Hearing Examiner, as appropriate, shall require increased buffer widths in accordance with the recommendations of an experienced, qualified wetland scientist, and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

1. A larger buffer is needed to protect other critical areas;
2. The buffer or adjacent uplands has a slope greater than fifteen percent (15%) or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland; or
3. The buffer area has minimal vegetative cover. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to project the wetland functions and values, implementation of a buffer planting plan may substitute. Where a buffer planting plan is proposed, it shall include densities that are not less than three (3) feet on center for shrubs and eight (8) feet on center for trees and require monitoring and maintenance to ensure success. Existing buffer vegetation is considered "inadequate" and will need to be enhanced through additional native plantings and (if appropriate) removal of non-native plants when:
 - a. non-native or invasive plant species provide the dominant cover,
 - b. vegetation is lacking due to disturbance and wetland resources could be adversely affected, or
 - c. enhancement plantings in the buffer could significantly improve buffer functions.

18.32.540 Wetlands – Preference of Mitigation Actions

Mitigation for lost or diminished wetland and buffer functions shall rely on the types below in the following order of preference:

A. Restoration (re-establishment and rehabilitation of wetlands):

1. The goal of re-establishment is returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.
2. The goal of rehabilitation is repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

B. Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native species. Establishment results in a gain in wetland acres. This should be

Exhibit A

attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design. If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the Department may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified wetland scientist that:

1. The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;
2. The proposed mitigation site does not contain invasive plants or noxious weeds or that such vegetation will be completely eradicated at the site;
3. Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g., due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light, or other impacts); and
4. The proposed land and buffer will eventually be self-sustaining with little or no long-term maintenance.

C. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement should be part of a mitigation package that includes replacing the altered area and meeting appropriate ratio requirements. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions lost. Applicants proposing to enhance wetlands or associated buffers shall demonstrate:

1. How the proposed enhancements will increase the wetland's/buffer's functions;
2. How this increase in function will adequately compensate for the impacts; and
3. How all other existing wetland functions at the mitigation site will be protected.

18.32.5405 Wetlands and Small Lakes - Compensating for Loss or Affected Functions **Wetland Mitigation Requirements**

A. Property development that may result in the loss of wetlands or "small lake" or adversely affect wetland values and/or functions shall provide compensatory mitigation in accordance with the order of ~~priority~~ preference set forth in OMC 18.32.135540.

B. Compensatory mitigation shall provide functional equivalency or improvement of the wetland functions lost, except when either:

Exhibit A

1. The lost wetland provides minimal functions as determined by a site specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or
2. Out-of-kind replacement of wetland type or functions will best meet watershed goals, such as replacement of historically diminished wetland types.

C. Compensatory mitigation shall be conducted on the site of the alteration except when all of the following apply:

1. There are no reasonable on-site or in sub-drainage basin opportunities (e.g., on-site options would require elimination of high-functioning upland habitat), or on-site and in sub-drainage basin opportunities do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydro geomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity); and
2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland.

D. Off-site compensatory mitigation shall be provided in the same drainage sub-basin unless:

1. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the Department and strongly justify location of mitigation at another site in a different drainage sub-basin; or
2. Credits from a state-certified wetland mitigation bank are used as compensation and the use of credits is consistent with the terms of the bank's certification.

E. The design for the compensatory mitigation project shall be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland is a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). It should not provide exaggerated morphology or require a berm or other engineered structures to hold back water.

~~18.32.545 Wetlands and Small Lakes - Compensation Projects~~

~~AE.~~ Any wetland compensation project prepared pursuant to this Chapter and approved by the Department shall become part of the approved development project.

~~BG.~~ Critical area tracts or a conservation easement for any mitigation area created, restored or enhanced as a part of a wetland mitigation proposal will be required if necessary to provide a reasonable assurance that the mitigation or adverse impacts will not be lost after the completion of the project, or to provide a reasonable period of time for establishment of a functioning system. The ~~regulatory agency-Department~~ may accept a comparable use restriction such as, but not limited to, state or federal ownership.

~~EH.~~ The person proposing a wetland compensation project shall demonstrate to the Department that sufficient expertise, supervisory capability and financial resources exist to carry out the proposed compensation project. The needed expertise, supervisory capability and financial resources will be commensurate with the proposed compensation. At minimum, the project applicant must provide a description of the personnel who will be involved in carrying out and supervising the project including academic degrees, areas of experience and work experience to date.

~~D.~~ Compensation areas shall be determined according to function, acreage, type, location, time factors, ability to be self-sustaining and projected success. Wetland functions and values shall be determined by use of the Washington State Methods for Assessing Wetland Functions (1999), Ecology Publication #99-115 and 99-116, as amended. Multiple compensation projects may be proposed for one project in order to best achieve the goal of no net loss.

~~EJ.~~ A development project by a public entity, or a private development project with a wetland less than four thousand (4,000) square feet, may pay a fee to the Department to have the City construct a compensation project. Such a proposal shall be on a case by case basis, must have funds committed towards a project on property owned by the city, a public entity, or a nonprofit agency acceptable to the City and meets all other provisions of this Chapter.

~~FJ.~~ When loss or disturbance of wetland results from a violation of this Chapter or of any permit, order or approved mitigation plan issued pursuant thereto, penalties provided in OMC 18.73 may be imposed.

18.32.550 Wetlands and Small Lakes - Replacement Ratios

~~A.~~—The wetland replacement ratios shall be those described on Table 8c-11, Appendix 8-C, of Wetlands in Washington State - Volume2: Guidance for Protecting and Managing Wetlands (2005) Ecology publication #05-06-008, as amended or revised.

~~B.~~—When the acreage required for compensatory mitigation is divided by the acreage of wetland adversely affected, the result is a number known variously as a replacement, compensation, or mitigation ratio.

Exhibit A

~~Compensatory mitigation ratios are used to help ensure that compensatory mitigation actions are adequate to offset unavoidable wetland impacts by requiring a greater amount of mitigation area than the area of impact.~~

18.32.555 Wetlands and Small Lakes - Increase and Reduction to Replacement Ratios

A. The Department may increase the wetland replacement ratios contained in OMC 18.32.550 under any of the following circumstances:

1. Uncertainty as to the probable success of the proposed restoration or creation;
2. Significant period of time between destruction and replication of wetland functions;
3. Projected losses in functional value; or
4. The wetland impact was unauthorized.

B. The Department may decrease the wetland replacement ratios for Category II, III, and IV wetlands contained in OMC 18.32.550 to not less than a 1 to 1 acreage replacement ratio when a qualified wetlands specialist can document that:

1. The proposed mitigation actions have a very high likelihood of success, and either
2. The proposed mitigation actions will provide functions and values that are significantly greater than the wetland being impacted, or
3. The proposed mitigation actions which are to be conducted in advance of the wetland impact have been shown to be successful.

~~18.32.560 Wetlands and Small Lakes - Type and Location of Compensation Mitigation~~

~~A. Compensatory mitigation actions shall be conducted on the site of the alteration except when all of the following apply:~~

- ~~1. There are no reasonable on-site or in drainage of sub-basin opportunities (e.g., on-site options would require elimination of high-functioning upland habitat), or on-site and in sub-drainage basin opportunities do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydro geomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity); and~~

Exhibit A

~~2.—Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland.~~

~~B.—Off-site compensatory mitigation shall be provided in the same drainage sub-basin unless:~~

~~1.—Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the department and strongly justify location of mitigation at another site in a different drainage sub-basin; or~~

~~2.—Credits from a state-certified wetland mitigation bank are used as compensation and the use of credits is consistent with the terms of the bank's certification.~~

~~C.—The design for the compensatory mitigation project shall be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland is a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). It should not provide exaggerated morphology or require a berm or other engineered structures to hold back water.~~

18.32.565 Wetlands and Small Lakes - Mitigation Timing

A. Where feasible, compensatory projects shall be completed prior to activities that will permanently disturb wetlands, and immediately after activities that will temporarily disturb wetlands.

B. In all cases compensatory projects shall be completed within one year after use or occupancy of the activity or development which was conditioned upon such compensation.

C. Construction of compensation projects shall be timed to reduce impacts to existing flora, fauna and fisheries.

D. The Department may authorize a one-time delay not to exceed twelve (12) months in the construction or installation of the compensatory mitigation. A written request shall be prepared by a qualified wetland professional and include the rationale for the delay. In granting a delay the Department must determine that it will not be injurious to the health, safety, and general welfare of the public.

18.32.570 Wetlands and Small Lakes - Wetland Mitigation Banks and In-lieu Fee

~~A.—Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:~~

~~1.—The bank is certified under Chapter 173-700 WAC;~~

Exhibit A

~~2.—The Department determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and~~

~~3.—The proposed use of credits is consistent with the terms and conditions of the bank's certification.~~

~~B.—Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.~~

~~C.—Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.~~

A. The city may approve mitigation banking or in-lieu fee mitigation as a form of compensatory mitigation for wetland and habitat conservation area impacts when the provisions of this chapter require mitigation and the use of a mitigation bank/in-lieu fee program will provide equivalent or greater replacement of critical area functions and values when compared to conventional permittee-responsible mitigation.

B. Mitigation banks and in-lieu fee programs shall only be used when it can be demonstrated that they provide significant ecological benefits including long-term conservation of critical areas, important species, and habitats or habitat linkages, and when they are documented to provide a viable alternative to the piecemeal mitigation for individual project impacts to achieve ecosystem-based conservation goals.

C. Mitigation banks and in-lieu fee programs shall not be used unless they are certified in accordance with applicable federal and state mitigation rules and expressly authorized through city legislative action.

18.32.575 Wetlands and Small Lakes - Special Reports

Every application for development that proposed to be located within or adjacent to a regulated wetland or its buffer shall include the following special reports:

- A. Wetland boundary delineation,
- B. Wetland rating report (if the wetland is unrated),
- C. Wetland mitigation report, and
- D. Wetland compensatory mitigation plan (if the application includes wetland replacement).

18.32.580 Wetlands and Small Lakes - Wetland Boundary Delineation

A. A wetland boundary delineation report shall establish the exact location of a wetland's boundary based on a field investigation by a qualified professional, ~~applying the Washington State Wetlands Identification and~~

Exhibit A

~~Delineation Manual, (1997) Ecology Publication #96-94, as amended or revised. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (WAC 173-22-035). Wetland data sheets shall be included in wetland reports.~~

~~B. The boundary delineation shall be prepared by a wetland biologist with experience preparing wetland reports, such as an individual certified by the Society of Wetland Scientists. Wetland delineations are valid for 5 years.~~

~~C. The wetland boundary, wetland buffer, and any critical area tract shall be identified on all grading, landscaping, site, utility or other development plans submitted on the project.~~

~~18.32.585 Wetlands and Small Lakes – Wetland Rating Report~~

~~A. A wetland rating report shall categorize the wetland (e.g., I, II, III, or IV) based on the Washington State Wetland Rating System for Western Washington (2004) as amended or revised.~~

~~B. The applicant may elect to pay a fee to the Department in lieu of submitting the wetland rating report. The Department will hire a qualified individual or firm to prepare the wetlands rating report.~~

~~C. The Department will determine the wetland category and required buffer width.~~

~~18.32.587 Wetlands and Ponds – Wetland Rating Report~~

~~A. The Washington State Wetland Rating System for Western Washington (2004) as amended or revised, shall be used to determine if the wetland is a Category I, II, III or IV wetland.~~

~~B. A wetland rating report shall categorize the wetland (e.g., I, II, III, or IV) based on the Washington State Wetland Rating System for Western Washington (2004 as amended or revised.~~

~~C. The applicant may elect to pay a fee (See OMC 4.) to the Olympia Community Planning and Development Department in lieu of submitting the wetland rating report. The Olympia Community Planning and Development Department will hire a consultant from a list of qualified individuals or firms to prepare the wetlands rating report.~~

~~D. The Department will determine the wetland category and required buffer width based on the wetlands rating report~~

~~18.32.590 Wetlands and Small Lakes - Wetland Mitigation Report~~

~~A. A Wetland Mitigation Report shall include an evaluation of the functions and values of the wetland.~~

Exhibit A

- B. It shall be prepared by a wetland biologist with expertise in preparing wetlands reports.
- C. The report ~~may~~ shall include the wetland boundary delineation and the wetland rating.
- D. The report shall include a list of the mitigation measures proposed, based ~~upon~~ OMC 18.32.135.
- E. It shall include a to-scale map with conditions as appropriate to the site. Use OMC 18.32.595 (~~DC~~) as guidance for those features to be included on this map.

F. The applicant may elect to pay a fee to the Department in lieu of submitting the wetland rating report. The fee shall be sufficient to cover the cost to the Department to hire a qualified individual or firm to prepare the wetlands rating report, which will determine the wetland category and required buffer width.

18.32.595 Wetlands and Small Lakes - Wetland Compensation Mitigation Report Plan

A. The Wetland Compensation Mitigation ~~Report~~ Plan must meet the general guidelines in OMC 18.32.136 in addition to the following specific guidelines. The Plan shall be prepared by a wetland biologist with experience preparing wetland reports, such as an individual certified by the Society of Wetland Scientists, must include a written report and map with the following elements: Full guidance can be found in the Guidance on Wetland Mitigation in Washington State - Part 2: Guidelines for Developing Wetland Mitigation Plans and Proposals, (2004) - Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10; Ecology Publication #04-06-013b, as amended or revised; and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) – Ecology Publication No. 09-06-32.

~~B. The report shall be prepared by a wetland biologist with experience preparing wetland reports, such as an individual certified by the Society of Wetland Scientists.~~

~~B.~~ B. The written report must contain:

1. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland related permit(s) required for the project; and a vicinity map for the project;
2. Description of the existing wetland and buffer areas proposed to be impacted including: acreages (or square footage) based on professional surveys of the delineations; Cowardin classifications including dominant vegetation community types (for upland and wetland habitats); hydro geomorphic classification of wetland(s) on and adjacent to the site; the results of a functional assessment for the entire wetland and the portions proposed to be impacted; wetland rating based upon OMC 18.32. 585;

Exhibit A

3. An assessment of the potential changes in wetland hydroperiod from the proposed project and how the design has been modified to avoid, minimize, or reduce adverse impacts to the wetland hydroperiod;
4. An assessment of existing conditions in the zone of the proposed compensation, including: vegetation community structure and composition, existing hydroperiod, existing soil conditions, existing habitat functions. Estimate future conditions in this location if the compensation actions are NOT undertaken (i.e., how would this site progress through natural succession?);
5. A description of the proposed actions to compensate for the wetland and upland areas affected by the project. Describe future vegetation community types for years one (1), three (3), five (5), ten (10), and twenty five (25) post-installation including the succession of vegetation community types and dominants expected. Describe the successional sequence of expected changes in hydroperiod for the compensation site(s) for the same time periods as vegetation success. Describe the change in habitat characteristics expected over the same twenty five (25) year time period;
6. The field data collected to document existing conditions and on which future condition assumptions are based for hydroperiod (e.g., existing hydroperiod based on piezometer data, staff/crest gage data, hydrologic modeling, visual observations, etc.) and soils (e.g., soil pit data - hand dug or mechanically trenched, and soil boring data. Do not rely upon soil survey data for establishing existing conditions.);
7. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands);
8. The estimated total cost for the bond for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice/year for up to five (5) years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring. The estimate shall be in sufficient detail to permit issuance of a bond to guarantee performance of the work; and
9. Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

DC. The map must contain:

1. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions;
2. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also

Exhibit A

existing cross-sections of on-site wetland areas that are proposed to be impacted, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation;

3. Surface and subsurface hydrologic conditions including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions;
4. Proposed conditions expected from the proposed actions on site including future hydro geomorphic types, vegetation community types by dominant species (wetland and upland), and future hydrologic regimes;
5. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this Title;
6. A plant schedule for the compensatory area including all species by proposed community type and hydrologic regime, size and type of plant material to be installed, spacing of plants, "typical" clustering patterns, total number of each species by community type, timing of installation; and
7. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each year.

18.32.600 ~~Landslide~~ Geological Hazard Areas - Purpose and Intent

In order to minimize damage to health and property due to landslide, erosion, seismic hazard or other naturally occurring events; control erosion, siltation, and stream health which affect fish and shellfish resources; and safeguard the public from hazards associated with landslides, mud flows and rock fall, landslide-geological hazard areas shall be subject to the standards described in OMC 18.32.605-603 through OMC 18.32.645-665. The Department may also restrict the uses and activities of a development proposal located within 300 feet of a geological hazard area.

18.32.603 Geological Hazard Areas - Mapping

A. The approximate location and extent of geologically hazardous areas are shown on the following maps:

1. U.S. Geological Survey landslide hazard, seismic hazard, and volcano hazard maps;
2. Washington State Department of Natural Resources seismic hazard maps for Western Washington;
3. Washington State Department of Natural Resources slope stability maps;

Exhibit A

4. Federal Emergency Management Administration flood insurance maps; and

5. Locally available maps.

B. These maps are a reference and do not provide a final critical area designation. They may be used as a guide for the City, project applicants, and property owners and may be continuously updated as new critical areas are identified.

18.32.605 Geological Hazard Areas - Alterations

A. Alterations of geological hazard areas or associated buffers may occur only for activities that meet the following criteria:

1. Will not increase the existing threat of the geological hazard to adjacent properties;

2. Will not decrease the factor of safety within the landslide area below the limits of 1.5 for static conditions and 1.1 for dynamic conditions. Analysis of dynamic (seismic) conditions shall be based on a minimum horizontal acceleration as established by the current version of the Washington State Building Code.

3. Will not adversely impact other critical areas;

4. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

5. Are certified as safe as designed under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

The department may condition or deny proposals as appropriate to achieve these criteria. Conditions may include limitations of proposed uses, modification of density, alteration of site layout, and other appropriate changes to the proposal.

B. Public emergency, health, and safety facilities, and public utilities, shall not be sited within geologically hazardous areas, or in areas that could be affected by geologic hazards, such as landslide run out zones, unless there is no other practicable alternative.

18.32.605-610 Landslide Hazard Areas - Applicability and Definition

A. "Landslide Hazard Area" means those areas which are potentially subject to risk of mass movement due to a combination of geologic, topographic and hydrologic factors; and where the vertical height is ten (10) feet or more. The following areas are considered to be subject to landslide hazards:

Exhibit A

1. Steep slopes of forty (40) percent or greater (refer to Figure ~~632-2~~);
2. Slopes of fifteen (15) percent or greater, with:
 - a. Impermeable subsurface material (typically silt and clay), frequently interbedded with granular soils (predominantly sand and gravel), and
 - b. Springs or seeping groundwater during the wet season (November to February) ~~(Refer to Figure 7)~~.
3. Any areas located on a landslide feature which has shown movement during the past ten thousand years or which is underlain by mass wastage debris from that period of time.

B. Not included in the definition of "Landslide Hazard Area" are those man-made steep slopes which were created in conformance with accepted construction standards or which meet the requirement of 18.32.640(C).

~~18.32.610 Landslide Hazard Areas – Prohibited Alterations~~

~~The following alterations or commencement of the following activities shall be prohibited within a landslide hazard area and its associated buffer, except as specified in OMC 18.37.070, 18.32.415 – Exempt Uses and Activities, OMC 18.32.420 – Administratively Authorized Uses and Activities, or OMC 18.32.425 – Hearing Examiner Authorized Uses and Activities:~~

~~Any human action which changes the existing condition including but are not limited to:~~

~~A. Grading;~~

~~B. Dredging;~~

~~C. Channelizing;~~

~~D. Cutting;~~

~~E. Clearing;~~

~~F. Filling;~~

~~G. Paving;~~

~~H. Building of structures;~~

~~I. Demolition of structures;~~

Exhibit A

- ~~J.—Relocating or removing vegetation;~~
- ~~K.—Introduction of invasive plant species;~~
- ~~L.—Application of herbicides, pesticides, or any hazardous or toxic substance;~~
- ~~M.—Discharging pollutants;~~
- ~~N.—Grazing domestic animals;~~
- ~~O.—Modifying for surface water management purposes; or~~
- ~~P.—Any other human activity that changes the existing vegetation, hydrology, wildlife, or wildlife habitat.~~

18.32.615 Landslide Hazard Areas - Exempt Uses and Activities

In addition to the exemptions in OMC 18.32.111, the following activities shall be exempt from the review requirements of this Chapter provided that appropriate erosion control best management practices are implemented during construction (if applicable) and any areas cleared of vegetation are replanted with native species:

- A. Activities within an ~~improved~~ ~~Right-of-Way~~, except those activities that alter a stream or wetland, such as a bridge or culvert, or result in the transport of sediment or increased stormwater.
- B. Fencing.
- C. Forest Practices Class I, II, and III, as defined in and conducted pursuant to the provisions of RCW 76.09.050, as amended.
- D. Construction and/or maintenance of a trail in the stream buffer, four (4) feet or less in width, not paved, and involving less than fifty (50) cubic yards of cut or fill.
- ~~E.—Non-commercial Signs Associated with Streams, including interpretive signs, Critical Area boundary signs, and survey markers.~~
- ~~F.—Normal Maintenance or Repair.~~
- ~~G.—Passive Recreation Activities.~~
- ~~HE. Wildlife Nesting Structure.~~

18.32.620 Landslide Hazard Areas - Administratively Authorized Uses and Activities

The Department may, after evaluation, authorize the following uses and activities within a landslide hazard area or its buffer:

A. Beach or Shoreline Access.

B. Existing Structure - Remodel and Replacement.

C. Forest Practices, pursuant to the provisions of OMC 16.60 and RCW 76.09.050, as amended.

~~D. Nondevelopment educational activities and scientific research.~~

~~E. Noxious Weed Control.~~

FD. Restoration/Revegetation of Site.

GE. Site Investigation.

~~HF. Slope Stabilization. The Department may allow the elimination of a landslide hazard area less than twenty (20) feet in height to stabilize a slope, subject to the provision of the IBC.~~

~~IG. Stormwater Facilities. The Department may allow stormwater facilities only in the outer half of the buffer at the toe of the slope, and only if the applicant demonstrates:~~

1. No practicable alternative exists;
2. The facility does not exceed twenty-five (25) percent of the buffer on site; and
3. The stability of the landslide hazard area will not be adversely impacted.

~~JH. Trail construction or maintenance of a trail located immediately adjacent to a stream, greater than four (4) feet wide, with a paved surface, and/or involving more than fifty (50) cubic yards of cut or fill, but only when the Department determines that there are no practicable or reasonable alternatives.~~

1. Public and private trails and trail-related facilities such as picnic tables, benches, interpretive centers and signs, viewing platforms and campsites shall be allowed, but use of impervious surfaces shall be minimized.
2. Trail planning, construction, and maintenance shall adhere to the following additional criteria:

Exhibit A

- a. Trails and related facilities shall, to the extent feasible, be placed on previously disturbed areas such as: existing or abandoned levees, or road, railroad, or utility corridors; and
- b. Trails and trail related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat.

~~K.I. Utility Line.~~ Utility lines may be allowed within landslide hazard areas when it can be determined that:

1. There are no practicable alternatives for the utility corridor,
2. The corridor alignment follows a path of least impact to the landslide hazard areas critical areas including maintaining and protecting and retaining the slope stability of streams in ravines and landslide hazard areas;
3. The corridor avoids cutting trees greater than six (6) inches in diameter at breast height when possible; and
4. Any access to the corridor for maintenance is provided as much as possible at specific points rather than by parallel roads.

18.32.625 Landslide Hazard Areas - Hearing Examiner Authorized Uses and Activities

The Hearing Examiner may, after review, authorize the following uses and activities within a landslide hazard area or its buffer:

- A. Road/Street - Expansion of Existing Corridor and New Facilities.
 1. Crossings of landslide hazard areas or other critical areas shall be avoided to the extent possible.
 2. Crossings shall serve multiple properties/purposes, whenever possible.
- B. Utility Facility.

Refer to the performance standards for Utility Line in OMC 18.32.~~625(K)~~620(I).

- C. Elimination of a Landslide Hazard Area.

When the landslide hazard area has a vertical dimension greater than twenty (20) feet in height and the landslide hazard could be eliminated through site grading.

- D. Other uses and activities.

Exhibit A

Other uses and activities may be allowed within a landslide hazard area on a case-by-case basis when it can be demonstrated that:

1. A Geotechnical Report described in OMC 18.32.640 has been provided, and
2. The applicant has demonstrated to the Examiner's satisfaction that legally enforceable commitments, such as bonds, letters of credit, and/or covenants, guarantee the use of development practices that will render the development as safe as if it were not located in a landslide hazard area.

18.32.630 Landslide Hazard Areas - Buffers

A. In order to minimize damage to personal health and property due to landslides, a buffer of undisturbed vegetation as provided in this Section shall be maintained between all regulated activities and landslide hazard areas. Development must maximize the retention of existing vegetation and retains all vegetation outside of the developed building area. Vegetation, in the form of ground cover, shrubs or trees, assists in stabilizing the ground surface. Damage to existing vegetation through removal or disturbance can have significant impacts on slope stability. Any removal of vegetation, therefore, must be minimized in steep slope areas. Where removal of vegetation cannot be avoided in order to accommodate a permitted development or to stabilize a slope, an acceptable plan to fully revegetate and restabilize affected areas must be provided.

B. The minimum required buffer widths ~~is are the greater amount of~~ the following distances measured from the edges of the landslide hazard area ~~(except for Subsection B.4 below):~~

1. ~~From all sides of the landslide hazard area limits: the distance recommended by the engineering geologist or geotechnical engineer.~~ The minimum distance recommended by the engineering geologist or geotechnical engineer;

2. If no recommendation by an engineering geologist or geotechnical engineer, then (See Figure 32-3):

2a. At the top of the landslide hazard area: a distance of one-third (1/3) the height of the slope or 50 feet, whichever is greater;

3b. At the bottom of the landslide hazard area a distance of one-half (1/2) the height of the slope or 50 feet, whichever is greater; or

4c. Fifty (50) feet in all directions from a seep; or

~~5. The minimum distance recommended by the engineering geologist or geotechnical engineer (Refer to Figures 6 and 7).~~

C. All landslide hazard area buffers shall be measured from the landslide hazard area as located in the field.

Exhibit A

D. The landslide hazard area, its buffer, and any critical area tract shall be identified on all grading, landscaping, site, utility or other development plans submitted on the project.

E. The Department may reduce the required landslide hazard areas buffer widths except buffers recommended pursuant to OMC 18.32.630 B ~~5~~1, up to fifty (50) percent on a case-by-case basis when supported by a Geotechnical Report including the following:

1. Buffer width reduction is supported by a Geotechnical Report described in OMC 18.32.640 ~~that evaluates the criteria in OMC 18.32.630(E)~~;
2. The existing buffer area is well-vegetated;
3. The protection of the landslide hazard area buffer using a fence and sign have been evaluated, as described in OMC 18.32.145;
4. Topographic conditions of the site and the buffer have been evaluated;
5. The intensity and type of the land uses adjacent to the buffer have been evaluated with respect to minimizing potential adverse impacts upon the landslide hazard area; [e.g. publicly owned parks, designated open space areas in plats and binding site plans, or lands with a recorded conservation easement];
6. The site has been evaluated with respect to its site design and building layout to minimize potential risks with landslide hazard areas; and
7. A smaller buffer will be adequate to protect property from the landslide hazard based on the best available science.

F. The Hearing Examiner may allow reductions greater than those described in OMC 18.32.630(E) to the required landslide hazard area buffer width on a case-by-case basis when it can be demonstrated that:

1. The provisions of OMC 18.32.630(E) have been evaluated by a Geotechnical Report described in OMC 18.32.640, and
2. Based upon the Geotechnical Report and the best available science it is demonstrated that the proposed landslide hazard area buffer width will be adequate to protect personal health and property from a landslide from this site.

Exhibit A

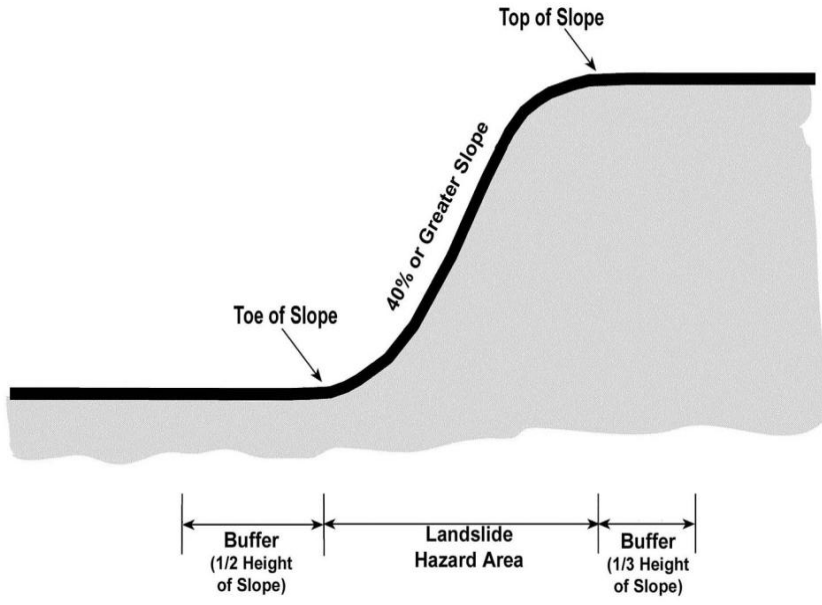


FIGURE 632-2

Exhibit A

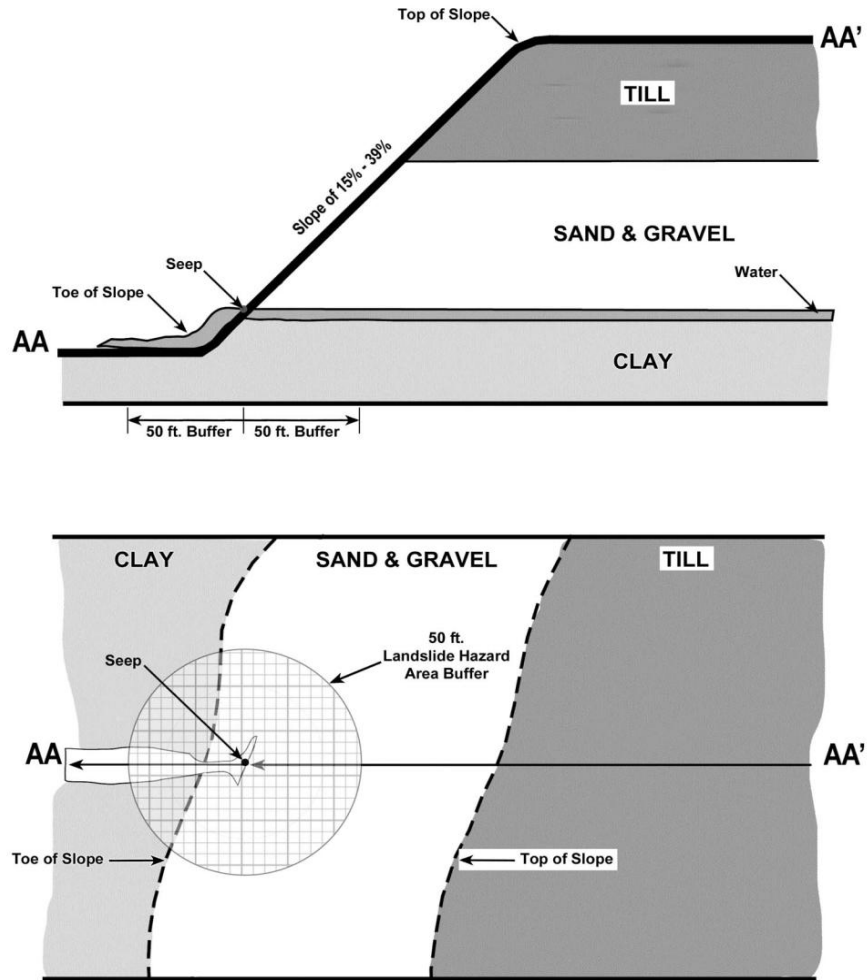


FIGURE 7

18.32.635 Landslide Hazard Areas - Special Reports

A. Every application for development within a landslide hazard area or its buffer shall provide the following special reports:

1. Drainage and erosion control plan;
2. Grading plan;
3. Geotechnical Report, and
4. Landscape Plan.

B. The Department may waive the submittal of any or all of these special reports when:

Exhibit A

1. The proposal increases the impervious surfaces within the subject parcel or parcels by less than ten (10) percent,
2. The removal of vegetation is minimal and is not likely to cause erosion or slope instability,
3. Less than fifty (50) cubic yards of material is excavated upslope from the steep slope,
4. The surface water flow is directed away from the face of the steep slope, or
5. The proposed project or activity will not substantially affect the natural integrity of the steep slope.

18.32.640 Landslide Hazard Areas - Geotechnical Report

- A. The Geotechnical Report shall be prepared and sealed by either an engineering geologist as defined by RCW 18.220, as amended, or a ~~geotechnical-licensed~~ engineer as defined by RCW 18.22043, as amended and in accordance with the Washington State Geologist Licensing Board's "Guidelines for Preparing Engineering Geologist Reports in Washington, 2006."
- B. The Geotechnical Report shall indicate if:
1. A potential landslide hazard is either present or highly likely; or
 2. A potential landslide hazard is present or that it is highly unlikely; or
 3. Available information to evaluate a potential landslide hazard is inadequate.
- C. Any area in which the Geotechnical Report investigation indicates a potential landslide hazard shall not be subject to development unless the report demonstrates one of the following:
1. The site specific subsurface conditions indicate that the proposed development is not located in a landslide hazard area or its buffer; or
 2. The proposed development has been designed so that the risk on the site and to adjacent property have been eliminated or mitigated to such a degree that the site is determined to be safe;
 3. Development practices are proposed that would render the development as safe as if it were not located in a landslide hazard area, or
 4. The proposed development activity is so minor as not to pose a threat to the public health, safety, and welfare.
- D. The Geotechnical Report shall be submitted for review by the Department and shall include:

Exhibit A

1. A detailed review of the field investigations, published data and references, data and conclusions from past geological assessments, or geotechnical investigations of the site, site-specific measurements, tests, investigations, or studies,
2. A determination of potential landslide hazard area conditions on the site, and its immediate vicinity, which may affect development on the site,
3. Consideration of the run-out hazard to the proposed development posed by debris from a landslide starting upslope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on down slope properties, and
4. Results, conclusions and recommendations including supporting analysis and calculations and a list of mitigation measures necessary in order to safely construct or develop within the landslide hazard area.

18.32.645 Landslide Hazard Areas - Covenant

A. The Department may require a covenant between the owner(s) of the property and the City when development is to occur within a landslide hazard area. The covenant shall be signed by the owner(s) of the site and notarized prior to issuance of any permit by the City. The covenant shall not be required where the permit or approval is for work done by the City. The covenant shall include:

1. A legal description of the property;
2. A description of the property condition making this subsection applicable;
3. A statement that the owner(s) of the property understands and accepts the responsibility for the risks associated with development on the property given the described condition, and agrees to inform future purchasers and other successors and assignees that the property is located within a landslide hazard area, of the risks associated with development thereon, of any conditions or prohibitions on development imposed by the City, and of any features in this design which will require maintenance or modification to address anticipated soils changes;
4. The application date, type, and number of the permit or approval for which the covenant is required; and
5. A statement waiving the right of the owner(s), the owner's heirs, successors and assigns to assert any claim against the City for any loss or damage to people or property either on- or off-site resulting from soil movement by reason of or arising out of issuance of the permit or approval by the City for the development on the property, except only for such losses that may directly result from the sole negligence of the City.

Exhibit A

B. The covenant shall be filed by the Department with the Thurston County Auditor, at the expense of the owner, so as to become part of the Thurston County real property records.

18.32.650 Erosion Hazard Areas - Description

Erosion hazard areas are those areas characterized by soil types that are subject to severe erosion when disturbed. These include, but are not limited to, those identified by the United States Department of Agriculture Soil Conservation Service Soil Classification System, with a water erosion hazard of "severe" or "high." These areas may not be highly erodible until or unless the soil is disturbed by activities such as clearing or grading.

18.32.655 Erosion Hazard Areas - Protection Measures

A. Before approving any development under this subsection, the Department may require the applicant to submit any or all of the following information in addition to a critical areas report:

1. A geotechnical report prepared by a geotechnical engineer or engineering geologist licensed in the state that describes how the proposed development will impact or be impacted by each of the following on the subject property and nearby properties:

a. Slope stability, landslide hazard, and sloughing;

b. Seismic hazards;

c. Groundwater;

d. Seeps, springs and other surface waters; and

e. Existing vegetation

2. A site plan, in two-foot contours, that identifies the type and extent of geologically hazardous areas on site and off site that are likely to impact or be impacted by the proposal.

3. Recommended foundation design and optimal location for roadway improvements.

4. Recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent properties.

5. Any other information the city determines is reasonably necessary to evaluate the proposal.

B. If the city approves any development under this section, it may, among other appropriate conditions, impose the following conditions of approval:

1. The recommendations of the geotechnical report are followed;

Exhibit A

2. A geotechnical engineer or engineering geologist is present on site during all development activities. As an alternative, the city may require minimal site visits by the geotechnical engineer or engineering geologist to establish proper methods, techniques and adherence to plan drawings;

3. Trees, shrubs and groundcover are retained except where necessary for approved development activities on the subject property;

4. Additional vegetation is planted in disturbed areas; and

5. Submit a letter by the geotechnical engineer or engineering geologist stating that they have reviewed the project plan drawings and in their opinion the plans and specifications meet the intent of the geotechnical report.

18.32.660 Seismic Hazard Areas – Description

Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

A. The magnitude of an earthquake;

B. The distance from the source of an earthquake;

C. The type of thickness of geologic materials at the surface; and

D. The type of subsurface geologic structure.

18.32.665 Seismic Hazard Areas - Alterations

Alterations to seismic hazard areas may be allowed only as follows:

A. The evaluation of site-specific subsurface conditions shows that the proposed development site is not located in a seismic hazard area; or

B. Mitigation based on the best available engineering and geotechnical practices shall be implemented which either eliminates or minimizes the risk of damage, death, or injury resulting from seismically induced settlement or soil liquefaction. Mitigation shall be consistent with the requirements of OMC 18.32.135 and shall be approved by the Department.

Exhibit A

Exhibit A

Exhibit A

18.02.180 Definitions

A. DEFINITIONS - SPECIFIC.

Abandon. To cease or suspend from developing or maintaining a building or use for a definite period of time.

Abandoned Activity. A business or activity with no reported sales or activity for a period of twelve (12) months, except temporary closures for repairs, alterations, or other similar situations. Land and/or buildings not in use for such period are considered vacant and unoccupied and may be subject to review including land use approval prior to renewal of use.

Abutting. Two or more parcels or buildings sharing a common boundary of at least one point.

Access. Safe, adequate, and usable ingress/egress (entrance/exit) to a property or use.

Accessory Dwelling Unit. See Dwelling, Conventional.

Accessory Structure. A structure detached from the principal building located on the same lot and customarily incidental and subordinate to the principal building. Any part of the main building which shares a common wall and roof is considered a part of that building. A building or portion thereof is not considered attached if the attachment is by a covered breezeway. (See also Subordinate.)

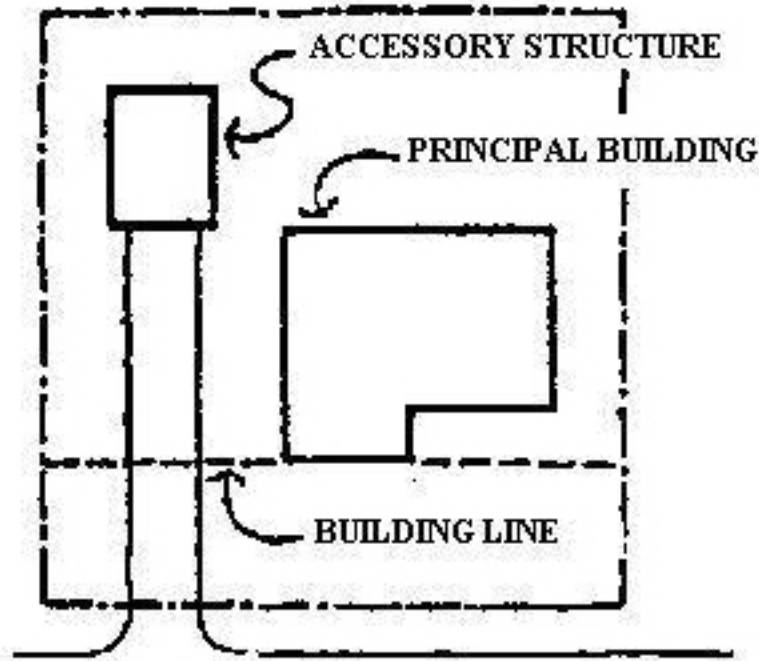


FIGURE 2-1

Exhibit B

Accessory Use. A use of land or a portion thereof customarily incidental and subordinate to the principal use of the land and located on the same lot with the principal use, such as: garage sales; merchandise displays outside of a business; community oriented outdoor activity associated with schools, churches, and other non-profit organizations; and temporary contractor offices on a construction site.

Action. A decision made by the review authority(s) on a land use application, including any findings, environmental determination and conditions of approval.

Adult Day Care Home. See Dwelling, Assisted Living.

Adult Entertainment.

a. Any exhibition, performance, or dance of any type conducted in a premises where such exhibition, performance, or dance involves a person who is unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals, or human male genitals in a discernibly turgid state, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals, or human male genitals in a discernibly turgid state, even if completely opaquely covered; or

b. Any exhibition, performance, or dance of any type conducted in a premises where such exhibition, performance, or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation of, or relation to, the following specified sexual activities:

i. Human genitals in a state of sexual stimulation or arousal;

ii. Acts of human masturbation, sexual intercourse, or sodomy; or

iii. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; provided, adult entertainment and specifically the "depiction, description, simulation of, or relation to" sexual activities described above, shall not be construed to include any form of actual sexual conduct as defined in this section.

c. Any exhibition, performance, or dance intended to sexually stimulate any patron and conducted in a premises where such exhibition, performance, or dance is performed for, arranged with, or engaged in with fewer than all patrons on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance exhibition or dance. For purposes of example and not limitation, such exhibitions, performances, or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing, or straddle dancing.

Adult-Oriented Business. Shall mean the following businesses:

Exhibit B

- a. Adult arcade. An establishment containing any individual viewing areas or booths, where, for any form of consideration, including a membership fee, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines are used to show films, motion pictures, video cassettes, slides, or other photographic reproduction of sexual conduct, or adult entertainment.
- b. Adult cabaret. A night club, bar, restaurant, theater, or auditorium, or similar commercial establishment, whether or not alcoholic beverages are served, which presents adult entertainment.
- c. Adult motel. A hotel, motel, or similar commercial establishment which:
 - i. Offers sleeping accommodation to the public for any form of consideration and, as a significant purpose of its business, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction of or description of sexual conduct or adult entertainment and are not rated G, PG, PG-13, NC-13, NC-17, or R by the Motion Picture Association of America; or
 - ii. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - iii. Allows a tenant or occupant of a sleeping room to sub rent the room for a period time that is less than ten (10) hours.
- d. Adult motion picture theater. A commercial establishment or drive-in theater where a significant portion of the films, motion pictures, video cassettes, slides, or similar photographic reproductions are characterized by the depiction or description of adult entertainment or sexual conduct and are not rated G, PG, PG-13, NC-13, NC-17, or R by the Motion Picture Association of America and are shown for any form of consideration.
- e. Adult book store. A business having as a significant portion of its volume of trade the display, barter, rental and/or sale of books, printed matter, video tapes, discs or cassettes, films, pictures or other material or paraphernalia distinguished or characterized by an emphasis on matters depicting, describing or relating to sexual conduct or adult entertainment, as defined herein. For purposes of this ordinance, "portion of its volume or trade" means that portion of the store's display space devoted to such material, or that portion of its gross receipts received from the sale of such material, whichever is greater.
- f. Other adult entertainment facility. Any commercial establishment to which any patron is invited or admitted and where adult entertainment is presented as a substantial part of the premises' activity, including but not limited to escort agencies, seminude or nude modeling studios, or similar establishments.

Affected Party. Any individual, partnership, corporation, association, or public or private organization of any character, significantly affected by or interested in an action before the Review Authority, including any party in a contested case.

Exhibit B

Affordable Housing. Housing affordable to households with an income not greater than 80 percent of the median income for Thurston County as determined by the U.S. Department of Housing and Urban Development. Affordable housing should cost no more than 30 percent of gross household income (including utilities).

Agriculture. The use of land for farming, dairying, pasturing and grazing, horticulture, floriculture, viticulture, apiaries, animal and poultry husbandry, and accessory activities, including, but not limited to, storage, harvesting, feeding or maintenance of equipment and onsite sales of agricultural products, but excluding stockyards, slaughtering or commercial food processing.

Airport or Heliport. Any area of land or structure designated and set aside for the landing and taking off of any aircraft regulated by the Federal Aviation Administration.

Alley. A public or private way, at the rear or side of property, permanently reserved as a means of vehicular or pedestrian access to a property.

Alteration. Any change, addition or modification in construction or occupancy.

Alteration, Critical Area. Any change to, addition to, or modification of an existing use, including any human activity that results or is likely to result in an adverse impact on the existing condition of a critical area or its buffer. "Alteration" does not include passive recreation such as walking, fishing or similar low impact activities.

Amendment. The action whereby the content of this title is revised, including additions, deletions, or clarification of language, maps, or diagrams.

Amusement Activity. An indoor, covered or outdoor facility or building that contains various devices for entertainment, including coin or token-operated machines, rides, booths to conduct games or the sale of souvenir items.

Ancillary Structure, WCF. Any form of development associated with a wireless communications facility, including but not limited to: foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports; however, specifically excluding equipment cabinets.

Animals. Any living organism except a plant, fungus, virus, or bacterium. (See also Pet, Traditional.)

Animal Hospital. A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment, including the accessory use of the premises as a kennel or a place where animals or pets are boarded for compensation.

Animal Kennel. See Kennel.

Exhibit B

Animal Unit. One thousand pounds of live weight of any given livestock species or any combination of livestock species. For additional information, see the U.S. Department of Agriculture Natural Resource Conservation Service Animal Waste Field Handbook.

Antenna. Any apparatus designed for the transmitting and/or receiving of electromagnetic waves, including but not limited to: telephonic, radio or television communications. Types of elements include, but are not limited to: omni-directional (whip) antennas, sectionalized (panel) antennas, multi or single bay (FM and TV), yagi, or parabolic (dish) antennas.

Antenna Array. A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

Antenna Element. Any antenna or antenna array.

Antenna Support Structure. A vertical projection composed of metal or other material with or without a foundation that is designed for the express purpose of accommodating antennas at a desired height. Antenna support structures do not include any device used to attach antennas to an existing building. Types of support structures include the following:

Guyed Structure. A style of antenna support structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

Lattice Structure. A tapered style of antenna support structure that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support antennas.

Monopole Structure. A style of freestanding antenna support structure consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of antenna support structure is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof.

Anti-Climbing Device. A piece or pieces of equipment, which are either attached to an antenna support structure, or which are freestanding and are designed to prevent people from climbing the structure. These devices may include but are not limited to fine mesh wrap around structure legs, "squirrel-cones," or other approved devices, but excluding the use of barbed or razor wire.

Apartment. See Dwelling, Conventional.

Exhibit B

Apparel and Accessory Stores. Stores primarily engaged in selling new or used clothing, shoes, jewelry, and related articles for personal wear and adornment and stores which rent clothing such as costumes or formal wear.

Applicant. Owner(s) or lessee(s) of property, including their agent(s) who submit an application for development, including person(s) who have contracted to purchase property.

Application Content Lists. That document entitled "City of Olympia Project Permit Application Content Lists" approved and adopted by the City Council setting forth the required content for project permit applications to be "completed" as that term is used in RCW 36.70B.080.

Arcade. A covered walk with shops along one side and a line of arches or columns on the other side.

Archaeological Sites. Any site or location of prehistoric or historic significance including, but not limited to, burial sites, camp sites, rock shelters, caves and their artifacts, implements and remains of preexisting native Americans.

Architectural Elements. Components that are part of a building, such as windows, doors, materials, details, and structural membrane.

Articulation. The giving of emphasis to architectural elements of a building (like windows, balconies, entries, etc.) that create a complementary pattern or rhythm, dividing large buildings into smaller identifiable pieces.

Ash, Incinerator. Particulate or solid residues resulting from the operation of incinerator or energy recovery facilities managing municipal solid waste, including solid waste from residential, commercial and industrial establishments, if the ash residues:

- a. Would otherwise be regulated as hazardous wastes under RCW 70.105; and
- b. Are not regulated as a hazardous waste under the Federal Resource Conservation and Recovery Act (RCRA), 42, U.S.C. Section 6910, et seq.

ASR. The Antenna Structure Registration Number as required by the FAA and FCC.

Attached Structure. Any structure that has an enclosed interior wall(s) and covered roof in common with another structure sufficient to constitute an occupiable room (i.e., seven feet wide or more). A structure connected to another structure only by a covered passageway is not considered attached. (See Detached Structure; note that structures conforming with neither definition must conform with requirements of this title for both types of structures.)

Auction. See Swap Meet.

Exhibit B

Auditor. The Auditor of Thurston County, Washington.

Automobile Rental Agencies. This includes businesses primarily engaged in short-term rental or extended-term leasing of passenger cars, hearses, limousines, and the like, without drivers. Finance (equity or full-payout) leasing of automobiles is classified with Motor Vehicle Sales.

Automobile Wrecking. The wrecking, dismantling, or salvage of motor vehicles or trailers, or the storage of, sale of or recycling or disposal of dismantled, partly dismantled, or wrecked motor vehicles or their parts. (See also Junk or Salvage Facility.)

Awning. A structure affixed to a building which extends over windows, sidewalks or doors, principally as protection from sun and rain.

B. DEFINITIONS - SPECIFIC.

Bank. See Office, Bank.

Bankfull Width (of Streams). Per WAC 222-16-010, the measurement of the lateral extent of the water surface elevation perpendicular to the channel at bankfull depth. In cases where multiple channels exist, bankfull width is the sum of the individual channel widths along the cross section. Field determination of the bankfull channel edge generally relies on changes in topography, vegetation, and sediment texture. Bankfull width is used to assess stream types per the Department of Natural Resources Stream Typing Classification System as required under OMC 18.32.435(C).

Base Station. The electronic equipment utilized by the wireless providers for the transmission and reception of radio signals.

Bed and Breakfast House. See Dwelling, Transient Housing.

Berm. A mound or embankment of earth.

Bicycle, In Building Parking. A secure bicycle storage area located within a building where access is restricted to users only.

Bicycle Check-in Systems. A bicycle storage area providing long and short-term storage and which is managed by an attendant.

Bicycle Lockers. A box, cabinet or other storage device which individually protects a bicycle and its components, and which contains a see-thru window or view holes. Such lockers are typically coin operated, rented on a monthly basis or managed to ensure their proper use.

Exhibit B

Bicycle, Limited Access Fenced in Areas. A restricted bicycle storage area that is protected from the weather and where access is supervised or limited to individual users.

Binding Site Plan. A drawing made and approved in accordance with the provisions of Title 17, Subdivision, and which contains inscriptions and attachments setting forth such appropriate limitations and conditions for the use of the land established by the city, and which contains provisions requiring any development to be in conformance with the site plan.

Bioengineering. The use of plant materials to stabilize and/or revegetate eroding stream channels and banks.

Blank Wall. Walls that meet the following criteria: A ground floor street wall or building wall or segment of a wall which is within 50 feet of the public rights-of-way and which is longer than 15 horizontal feet without having a ground level window door, or building facade modulation at least one foot in depth, or other architectural feature lying wholly or in part within that 15 feet length.

Block. Parcel(s) of land surrounded by public streets, highways, freeways, railroad rights-of-way, flood control channels, creeks, washes, rivers or unplatted acreage or any combination thereof.

Block Face. One complete side of a block, usually facing a public street.

Boarding Home. See Dwelling, Conventional.

Boat Sales and Rentals. A business primarily engaged in sales and/or rental of new and used motorboats, sailboats, and other watercraft. Businesses primarily engaged in the sale of supplies for recreational boating, such as sails, outboard motors, and marine hardware, are classified as Specialty Stores.

Boat Storage Facility. A facility meant to provide long-term shelter for watercraft and their accessories, e.g., canoes, sail boats, power boats, etc.; not including service, repair or sales.

Breakpoint Technology. The engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole.

Buffer. An area or distance from the critical area which is required for the continued maintenance, functioning, and/or structural stability of a critical area; or is necessary to minimize risk to the public.

Buildable Lot. A lot meeting all minimum requirements of size, shape, frontage, and sanitation contained in this Title and other ordinances of the city.

Exhibit B

Building. A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or property of any kind.

Building Area. The net portion of the lot remaining after deducting all required setbacks, public rights-of-way, critical area buffers and other required open space from the gross area of the lot.

Building Coverage. See Coverage, Building.

Building Line. A line parallel with the structural foundation located on the inside border of the required yard.

Building, Main. The principal building on a lot or building site designed or used to accommodate the primary use to which the premises is devoted. When more than one building on the premise is designed or used for the primary use, each such building is considered a main building.

Building Materials, Garden and Farm Supplies Store. This includes businesses primarily engaged in selling products such as lumber and other building materials; paint; glass; wallpaper; hardware; nursery stock; lawn and garden supplies including mowers and garden tractors; and farm supplies such as seeds, feeds, fertilizer, and farm tools. It includes such firms if they sell to the general public, even if they also sell to contractors; if they do not sell to the general public at all, they are classified as Wholesale Trade. Firms primarily selling plumbing, heating and air conditioning equipment, or electrical supplies are also classified as Wholesale Trade. Florists and other stores selling cut flowers and potted plants not grown on the premises are classified as Specialty Stores. (See also Greenhouse and Nursery.)

Building Site. A parcel of land occupied or intended to be occupied by a main building and its accessory buildings, together with all the open space and yards required by this Development Code.

C. DEFINITIONS - SPECIFIC.

Caliper. The American Association of Nurserymen standard trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six inches above the ground for up to and including four inch caliper size, and twelve inches above the ground for larger sizes.

Canopy. A permanent flat roof-like structure attached to and supported by a building, used principally as protection from sun and rain. The structure may or may not incorporate a sign.

Carport. A roofed structure providing space for the parking of motor vehicles, boats, recreational vehicles or other equipment, and enclosed on no more than three sides.

Cemetery. Property used for the interment of the dead.

Certificate of Appropriateness. A letter or other document stating that proposed changes will not adversely affect the historic characteristics of the property that contribute to its designation.

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Certificate of Occupancy. A permit issued by the Community Planning and Development Department prior to occupancy of a structure when the structure is ready for occupancy.

Change of Occupancy. A change in the existing occupancy classification of a building, structure, or land, or portion thereof, as established and defined by the Uniform Building Code then in effect. Land use approval by appropriate authority and a certificate of occupancy issued by the building official may be required for any such change

Change of Use. Any use that substantially differs from the previous use of a building or land. If a particular land use is undefined by this Development Code, the most similar use listed in the Standard Industrial Classification (SIC) Manual shall be used. A change of ownership shall not be considered a change of use. (See also Thurston County Assessor SIC land use classifications.)

Child Day Care. The provision of supplemental parental care and supervision:

- a. For an unrelated child or children,
- b. On a regular basis,
- c. For less than 24 hours a day, and
- d. Under license by the Washington State Department of Social and Health Services.

As used in this Development Code, the term is not intended to include babysitting services of a casual, non-recurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocal child care by a group of parents in their respective domiciles.

Child Care Home, Family. A facility in the residence of the licensee providing regular scheduled care for twelve or fewer children, within a birth through eleven-years-of-age range exclusively, for periods of less than 24 hours.

Child Day Care Center. A facility providing regularly scheduled care for a group of children one month of age through 12 years of age for periods less than 24 hours.

Church. A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses, not to include bingo or games of chance, nor schools which exceed normal religious service hours.

City. The City of Olympia.

City Council. The duly elected Mayor and Council Members of the City of Olympia.

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Clear Sight Triangle. A triangular-shaped portion of land at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the vision of vehicle operators entering or exiting the intersection. (See also Chapter 18.40.)

Clearing. The destruction or removal of vegetation from a site by physical, mechanical, chemical, or other means, not including landscape maintenance or pruning consistent with accepted horticultural practices which does not impair the health or survival of trees and vegetation.

Clinic. A place for outpatient medical services to human patients.

Closed Record Appeal. An administrative appeal following an open record hearing on a project permit application when the appeal is on the record with no new evidence or information allowed to be submitted and only appeal argument allowed. [See RCW 36.70B.020 (1)].

Club. An association of persons (whether or not incorporated) organized for some common purpose, not including a group organized primarily to render a service customarily carried on as a business. Retail warehouse buying clubs are not included in this definition. (See also Health Club and Country Club.)

Clustered Subdivision. A subdivision development in which building lots are sized to conform to the "footprint" of the structures and placed closer together than conventional development (usually in groups or clusters). The remaining undeveloped land is generally preserved as open space and/or recreation land. Private development easements around the structures are permitted for private landscaping, pools, spas, yards, and similar uses.

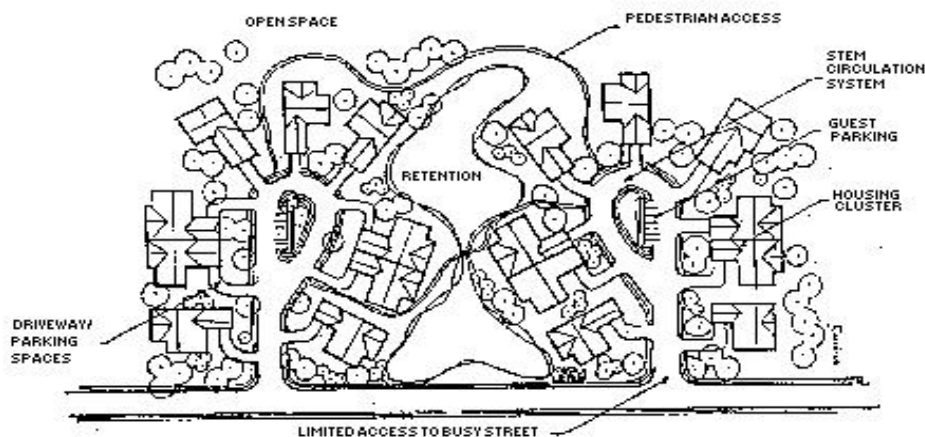


FIGURE 2-2

Cocktail Lounge. See Drinking Establishments.

Exhibit B

Co-Housing. See Dwelling, Conventional.

Collocation. The practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same antenna support structure or attached wireless communication facility using different and separate antenna, feed lines and radio frequency generating equipment.

Combined Antenna. An antenna or an antenna array designed and utilized to provide services for more than one wireless provider for the same or similar type of services.

Commercial Vehicle. A vehicle customarily used as part of a business for the transportation of goods or people.

Commission. The Planning Commission of the City of Olympia.

Common Structure. A commonly owned structure intended for the common use of all residents of the development which meets the requirements of Section 18.04.060(F)(1).

Community Clubhouse. A privately owned structure in which inhabitants of a neighborhood or subdivision, or members of a neighborhood association gather for meetings and other activities.

Community Park. An area intended for use by the community for active and/or passive recreation activities. Such parks may contain large areas such as lake fronts, parkways, forest areas, picnic areas, arts facilities and regulation size athletic fields designed for organized competitive sports such as softball, baseball or soccer.

Compensation. Types of compensation include, but are not limited to the following:

In-Kind. Replacement of a habitat type with substitute habitat whose characteristics closely approximate those destroyed or degraded by an allowable use or activity.

Off-Site. Replacement of a specific habitat type away from the site on which a habitat type has been impacted by an allowable use or activity.

On-Site. Replacement of a habitat type at or within 500 feet of the site on which the habitat type has been impacted by an allowable use or activity.

Out-of-Kind. Replacement of a habitat type with a substitute habitat type whose characteristics do not closely approximate those destroyed or degraded by an allowable use or activity.

Compensation Project. Actions necessary to replace project-induced losses to the functional values of a critical area, including land acquisition, planning, construction plans, monitoring and contingency actions.

Complete Application. A written application for a project permit which meets the procedural submission requirements of the City and is sufficient for continued processing even though additional information may be

Exhibit B

required or project modifications may subsequently occur. To be complete, an application must include all required information, elements, attachments and supplemental studies or reports as set forth in the applicable section of the Olympia Municipal Code and as described on the approved application form, including any environmental checklist required by OMC Chapter 14.04; all insufficient detail for the reviewing authority to determine whether or not such application conforms with applicable regulations and standards. An application including such information which does not conform or is inconsistent with such regulations and standards shall nonetheless be deemed complete. See RCW 36.70A.440.

Complete Application, Date of. The date upon which the City has received all necessary information, forms, and fees required for the City to issue a determination of completeness. The date of complete application may precede the date upon which such determination is issued.

Comprehensive Plan. The plan adopted by the City Council to guide the physical growth and improvement of the city, including any future amendments and revisions.

Conditional Use Permit. A discretionary permit granted under the provisions of this Development Code and which, when granted, authorizes a specific use to be made of a specific property, subject to compliance with all terms and conditions imposed on the permit.

Condominium. See Dwelling, Conventional.

Conference Center. A facility used for seminars, conventions, symposiums and similar uses, with meeting rooms and possibly food preparation and eating facilities.

Confidential Shelter. See Dwelling, Assisted Living.

Conforming Use. A land use consistent with the list of permitted uses for the district in which it is located, or otherwise designated as a conforming use in that district.

Congregate Care Senior Housing. See Dwelling, Assisted Living.

Consistency with Comprehensive Plan. Performance in accordance with and complying and conforming with state law and the Olympia Comprehensive Plan as determined by consideration of the type of land use, the level of development, infrastructure, and the character of the development. [See RCW 36.70B.040].

Construction Permit. A building permit or engineering permit issued by the City of Olympia or other public agency authorizing specific physical alteration of land or alteration, installation, placement or creation of structures attached to land, including land covered by water.

Construction Permit, SEPA-exempt. A construction permit or license exempt from the threshold determination and environmental impact statement requirements of the State Environmental Policy Act, such as an electrical, mechanical, plumbing or single-family building permit, and installation permits for lateral utility lines.

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Contiguous Land. Parcels adjoining and touching other land and having the same owner regardless of whether or not portions of the parcels have a separate tax lot numbers, were purchased at different times, lie in different sections, are different government lots or are separated from each other by private roads or private rights-of-way.

Contributing Historic Property. A property within a designated historic district listed as having enough historic significance to have been listed as a "contributing" property during the historic district approval process.

Convalescent Home. See Dwelling, Assisted Living.

Cornice. Any ornamental molding which protrudes along the top of a building.

Cottage Housing. See Dwelling, Conventional.

Country Club. A private or public membership facility designed for tennis, swim and other recreational activities except riding stables. Such uses and activities may be grouped around a clubhouse containing a restaurant, banquet and meeting room facilities. (See also Golf Course.)

County. Thurston County.

Courtyard. An open, unoccupied space, other than a yard, on the same lot with a building and bounded on two or more sides by the walls of a building.

Covenant. See Restrictive Covenant.

Coverage, Building. The portion of a lot covered by the principal and accessory building floor area including all areas covered by a weather-tight roof, excluding eaves.

Coverage, Impervious/Development. The area which is occupied or covered by all impervious surfaces including the total horizontal surface of all buildings, except two feet of eaves. (See also Net Site Area and Impervious Surface.)

Crematorium. A facility that uses heat or fire to reduce human or animal remains to ashes.

Creek. See Stream.

Crisis Intervention Service. A mental health agency that offers 24 hour counseling, instruction and referral to persons in critical situations. This service is provided by telephone only and not in-person. Crisis intervention services are defined and regulated in Chapter 275-56-350 of the Washington Administrative Code. Such facilities may be characterized by a need for location confidentiality. This is not defined as a Business Office nor a Government Office.

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Critical Area. Any of the following areas and ecosystems:

- a. Wellhead Protection Areas,
- b. Important Habitats and Species,
- c. Streams and Priority Riparian Areas,
- d. Wetlands ~~and Ponds~~, and
- e. ~~Landslide~~ Geological Hazard Areas.

Critical Area Tract. An area containing a critical area and/or buffer and that is subject to a recorded critical area protection restriction. (See Tract)

Culvert. A conveyance device (e.g., concrete box, pipe) which conveys water under (usually across) a roadway or embankment.

D. DEFINITIONS - SPECIFIC.

Dangerous Waste. Any discarded, useless, unwanted or abandoned substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:

- a. Have short-lived, toxic properties that may cause death, injury or illness or have mutagenic, teratogenic or carcinogenic properties; or
- b. Are corrosive, explosive, flammable or may generate pressure through decomposition or other means. (See also Hazardous Waste, Extremely.)

Date of Filing. The date that a complete and accurate application is submitted and appropriate fees paid.

Days. Consecutive calendar days unless otherwise stated.

Decorative Grille Work. Grille work which through the use of material, geometric pattern, configuration, embellishment, or workmanship exceeds the normal functional requirements. Parallel vertical bars - resembling a jail cell pattern - are not considered decorative grille work.

Dedication. The deliberate appropriation of land by an owner(s) for any general and public uses, reserving to themselves no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property is to be devoted. The intent to dedicate shall be evidenced by the owner by the

Exhibit B

presentment for filing of a final plat, short plat or binding site plan which shows the dedication thereon. Acceptance by the public shall be evidenced by written approval issued by the city of such document for filing with the County Auditor.

Deficiency, Application. The lack of an element or information which results in an application being deemed not complete, or which otherwise prevents meaningful review and rendering of a decision regarding the application. A deficiency includes an element or information which is absent, is inaccurate or in some other aspect does not conform with applicable regulations and standards, and supplemental information or studies required to review an application. Erroneous or misleading information intentionally included in an application shall constitute a deficiency.

Department. The City of Olympia Community Planning and Development Department.

Design. The planning and engineering of street alignments, grades and widths; drainage and sanitary facilities and utilities, including alignment and grades thereof; location and size of all required easements and rights-of-way; fire roads and fire breaks; lot size and configuration; vehicle access; grading; land to be dedicated for park or recreational purposes; building and other accessory physical requirements.

Design Review. The evaluation of a site, building, landscape design plan or sign program submitted to the Design Review Board or staff, which may approve or deny the plan in part, or make further design recommendations based upon adopted guidelines.

Design Review Board. A committee with a balance of design professionals (architecture, planning, engineering, landscape architecture) and citizens who are appointed by the City Council.

Detached. Any building or structure that does not have a wall and roof in common with any other building or structure and where exterior walls are separated by six feet or more. (See Attached Structures; note that structures conforming with neither definition must conform with the requirements of this title for both types of structures).

Determination of Completeness. A written determination by the director or fire chief or their respective designees that all required elements of an application have been received by the City. This determination initiates the statutory review period for the application, if any, and subject to certain exceptions, entitles the applicant to have the application considered and reviewed pursuant to the laws, regulations and standards in effect on the date the application was complete.

Development. The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, clearing or land disturbance; or any change of use or extension of the use of land. (See also Improvement.)

Exhibit B

Development Area, WCF. The area occupied by a wireless communications facility including areas inside or under the following: an antenna support structure's framework, equipment cabinets, ancillary structures and access ways.

Development Code. A text incorporating areas of regulation more typically presented in separate zoning and subdivision ordinances and related chapters of the Municipal Code.

Development Coverage. See Coverage, Development.

Development Permit. Any land use permit which must be approved prior to the improvement and development of land or structures.

Director. The Director of the City of Olympia Community Planning and Development Department, and the Director's designees.

District or Zone. A specific area designated on the official zoning map of the city as one of the use districts as provided for in this title; such area is subject to all the requirements and regulations applicable to such district.

Dormitory. A residential structure intended principally for sleeping accommodations, where no individual kitchen facilities are provided, and which is related to an educational or public institution or is maintained and operated by a non-profit welfare organization.

Drinking Establishment. A business primarily engaged in the retail sale of alcoholic beverages for consumption on the premises, including night clubs, bars, and taverns. A lounge operated as part of a restaurant is considered to be accessory to the restaurant.

Drinking Water Protection Area. See OMC 18.32.205.

Drip Line. An imaginary ground line around a tree or building that defines the outermost limits of the tree canopy or building roof eave.

Drive-in Theater. An open lot devoted primarily to the showing of motion pictures.

Drive-Through Restaurant. See Restaurant, Drive-Through.

Dwelling Unit. See definition for single-family. Various types of housing or human shelter, which are listed below and categorized by use.

a. Dwelling, Conventional.

Exhibit B

- i. Accessory Dwelling Unit. A dwelling unit that has been added onto, created within, or separated from a single-family detached dwelling for use as a complete independent living unit with provisions for cooking, sanitation and sleeping.
- ii. Apartment. A dwelling within a structure designed and used for occupancy by three or more individual persons or families living independently of each other. These structures include triplexes, fourplexes, and other multi-unit configurations.
- iii. Boarding Home. Any home or institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator, under the provisions of Chapter 18.20 RCW. It shall not include any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. (See also Dwelling, Assisted Living.)
- iv. Co-Housing. Co-housing developments consist of two or more dwelling units, one or more shared community structures (e.g., containing a meeting hall, dining hall/kitchen, community center, or day care) and perhaps a community garden, recreation area, or similar community oriented use.
- v. Condominium. A development consisting of an undivided interest in common for a portion of a parcel coupled with a separate interest in space in a residential or commercial building on the parcel.
- vi. Cottage Housing Development. Four or more small, detached dwelling units sharing a commonly owned courtyard/common area and parking area.
- vii. Duplex. One building containing two single-family dwelling units totally separated from each other by a one-hour fire wall or floor.
- viii. Guest House. Living quarters without kitchen facilities located on the same lot with a principal building and occupied for the sole use of members of the family, temporary guests, or persons permanently employed on the premises. (See also Accessory Dwelling Unit.)
- ix. Manufactured Home. A single-family residence constructed after June 15, 1976, and installed in accordance with the U.S. Department of Housing and Urban Development (HUD) requirements for manufactured housing and bearing the appropriate insignia indicating such compliance.
- x. Manufactured Home, Designated. A manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, and which meets the requirements of OMC 18.04.060.O.

Exhibit B

- xi. **Manufactured Home, New.** Any manufactured home required to be titled under Title 46 RCW, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032(2).
 - xii. **Mobile Home.** A single-family residence transportable in one or more sections, built on a permanent chassis, designed to be used as a permanent dwelling and constructed before June 15, 1976.
 - xiii. **Modular Home.** A structure constructed in a factory and installed in accordance with the applicable Building Code and bearing the appropriate insignia indicating such compliance. This definition includes "pre-fabricated," "panelized" and "factory built" units.
 - xiv. **Single-Family Dwelling.** A single unit providing complete, independent living facilities for a family, including permanent provisions for living, sleeping, cooking and sanitation.
 - xv. **Single-Room Occupancy.** A housing type consisting of one room with cooking facilities and with shared bathroom facilities. (See also Boarding Home, Lodging House and Bed and Breakfast.)
 - xvi. **Townhouse.** A single-family dwelling unit which is part of a group of two or more such units separated by a completely independent structural wall (including utilities in separate walls), extending from the ground to the roof in accordance with the applicable Building Code and which has no doors, windows or other provisions for human passage or visibility through the wall. In certain zoning districts, such dwelling units are platted with common side and/or rear property lines between the structural walls. See Chapter 18.64.
- b. **Dwelling, Transient.**
- i. **Bed and Breakfast.** A dwelling for the purpose of providing lodging for travelers and guests for a period of less than two weeks for compensation and having at least one kitchen used to provide breakfast but no other meals. Such dwelling shall have no more than five such guest rooms for persons other than the immediate family of the operator occupying such dwelling. Any such dwelling having over five such guest rooms is a hotel.
 - ii. **Hotel.** Any building containing six or more guest rooms where lodging, with or without meals, is provided for compensation, and where no provisions are made for cooking in any individual room or suite.
 - iii. **Lodging House.** A dwelling having only one kitchen and used for the purpose of providing lodging, or lodging and meals, for compensation for no more than five persons other than the members of the immediate family of the operator occupying such dwelling. Any such dwelling having

Exhibit B

over five such guests is considered a hotel. (See also Boarding Home.) [NOTE: A lodging house allows for an unlimited stay, unlike a Bed and Breakfast which is limited to two weeks.]

iv. Motel. Guest rooms or suites occupied on a transient basis often with most rooms gaining access from an exterior walkway. (See also Recreational Vehicle.)

v. Trailer House. See Recreational Vehicle.

c. Dwelling, Assisted Living.

i. Adult Day Care Home. A residence in which adults (at least 18 years in age) and who are not related to the caregiver stay for no more than 12 hours per day. Emergency medical care may be provided in such facilities, but not convalescent care. (See also Convalescent Home and Elder Care Home.)

ii. Convalescent Home. Any home, place, institution or facility which provides convalescent or chronic care, or both, for a period in excess of 24 consecutive hours for three or more patients not related by blood or marriage to the operator, who by reason of illness or infirmity, are unable properly to care for themselves. Such establishment shall be duly licensed by the State of Washington as a "nursing home" in accordance with the provisions of Chapter 18.51 RCW.

iii. Congregate Care Facilities. A building or complex of dwellings specifically designed for occupancy by senior citizens which provides for shared use of facilities, such as kitchens, dining areas, and recreation areas. Such complexes may also provide kitchens and dining space in individual dwelling units. Practical nursing care may be provided, but not nursing care as described in Section 18.04.100(S).

iv. Elder Care Home. An elder care home or adult family home in the primary residence of a person licensed pursuant to Chapter 70.128 RCW to provide personal care, room, and board for one to five adults (at least 18 years of age) who are not related to the caregiver. Home health care and limited nursing care (dispensing of medicine and emergency medical aid) may be provided, but not convalescent care. (See also Convalescent Home, and Boarding Home.)

v. Group Homes. A place of residence for the handicapped, physically or mentally disabled, developmentally disabled, homeless, or otherwise dependent persons. Group Homes are intended to provide residential facilities in a home-like environment. Such homes range from licensed establishments operated with 24 hour supervision to non-licensed facilities offering only shelter. They shall not include correctional facilities (except as authorized by Chapter 137-56 and 137-57 WAC for work/training release programs), nursing homes, Type III group care facilities, foster family homes, or adult family homes as defined by the Washington State Department of Social and Health Services or its successor agency. Group homes include, but are not limited to the following:

Exhibit B

(a) Confidential Shelters. Shelters for victims of domestic violence as defined and regulated in Chapter 70.123 RCW and Chapter 388-61A WAC. Such facilities are characterized by a need for confidentiality.

(b) Home for the Disabled. A home or other facility which provides board and domiciliary care to individuals who, by reason of infirmity, require such care. An infirmity may be based on conditions including, but not limited to, physical handicap, mental illness, and other developmental disabilities. These group homes are a type of boarding home, as defined and regulated in Chapter 18.20 RCW. However, boarding homes serving the aged infirm are not included in this definition.

(c) Homeless Shelter. A facility offering lodging and/or emergency shelter to homeless individuals for an indefinite period of time and meeting the standards of Chapter 248-144 WAC.

(d) Group Home for Youth. Any home maintained and operated for the care of children on a 24 hour basis as defined and regulated in Chapter 388-73 WAC and Chapter 74.15 RCW.

(e) Group Home for Offenders. A home or other facility operated for housing and supervision of work/training release residents during their stay in a work/training release program as defined and regulated in Chapters 137-56 and 137-57 WAC.

vi. Hospice Care Center. Facilities licensed under Chapter 70.41 RCW which provide for the emotional and physical care of terminally ill patients. Such centers provide food, lodging, and palliative care on a full-time (24 hour) basis for two or more people, unrelated to the Center's operator, who are in the latter stages of a disease expected to cause death.

vii. Nursing Homes. See Convalescent Home.

viii. Rest Home. See Congregate Care.

E. DEFINITIONS - SPECIFIC.

Easement. A right of one owner of land to make lawful and beneficial use of the land of another, created by an express or implied agreement.

Easement, Conservation. The grant of a property right stipulating that the described land will remain in its current state, precluding future or additional development.

Easement, Scenic. An easement the purpose of which is to limit development in order to preserve or enhance a view or scenic area.

Elder Care. See Dwelling, Assisted Living.

Exhibit B

Electric Vehicle Infrastructure. Structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

- a. "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles.
- b. "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process.
- c. "Charging levels" means the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms 1, 2, and 3 are the most common electric vehicle charging levels, and include the following specifications:
 - i. Level 1 is considered slow charging. Level 1 is present in homes and businesses and typically operates on a 15- or 20-amp breaker on a 120-volt Alternating Current (AC) circuit and standard outlet.
 - ii. Level 2 is considered medium charging. Typically, Level 2 is for home and public charging and operates on a 40-amp to 100-amp breaker on a 208 or 240-volt AC circuit.
 - iii. Level 3 is considered fast or rapid charging. Level 3 is primarily for commercial and public applications (e.g., taxi fleets and charging along freeways) and typically operates on a 60-amp or higher dedicated breaker on a 480-volt or higher three-phase circuit with special grounding equipment.
- d. "Electric vehicle" means any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. "Electric vehicle" includes any one of the following: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle; (3) a neighborhood electric vehicle; and (4) a medium-speed electric vehicle.

Emergency. An imminent threat to health, safety, or welfare, or an imminent risk of substantial damage to public or private property.

Emergency Housing. A temporary shelter usually in the form of a mobile home which is occupied only during the period of reconstruction of a dwelling following damage sustained by fire, explosion, act of nature or act of public enemy.

Emergency Repair. Work necessary to prevent destruction or dilapidation of real or personal property or structures immediately threatened or damaged by fire, flood, earthquake or other disaster.

Exhibit B

Entertainment Event. Includes any festival, sporting event, celebration, circus, carnival, fair, or other similar event open to the public.

Equipment Cabinet, WCF. Any structure above the base flood elevation (including cabinets, shelters, pedestals, and other similar structures) used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

Equipment Compound, WCF. The fenced area surrounding the ground-based wireless communication facility including the areas inside or under the following: an antenna support structure's framework and ancillary structures such as equipment necessary to operate the antenna on the WCF that is above the base flood elevation including: cabinets, shelters, pedestals, and other similar structures.

Entertainment (Live). Any act, play, revue, pantomime, scene, dance act, or song and dance act, or any combination thereof, performed by one or more persons, whether or not they are compensated for the performance.

Equipment - Light. Machinery which a person does not ride such as chain saws, wheelbarrows, and hand-held tools.

Equipment Rental Service, Commercial. A business which rents or leases equipment for personal or household use, including but not limited to power and hand tools, yard and garden equipment, or party supplies such as dishware, glassware, and folding tables and chairs. This does not include rental of furniture or appliances, which is classified under Furniture, Home Furnishings, and Appliance stores. It also does not include rental or leasing of portable toilets, heavy equipment like bulldozers, or similar services to the construction trades. These are classified as Light Industrial uses.

Essential Public Facilities. Public facilities and privately owned or operated facilities serving a public purpose which are typically difficult to site. They include, but are not limited to, airports; state educational facilities; state or regional transportation facilities; prisons, jails, and other correctional facilities; solid waste handling facilities; inpatient facilities such as group homes and mental health facilities; sewage treatment facilities; and communication towers and antennas.

Examiner. The Hearing Examiner of the City of Olympia.

Excavation. Any digging, scooping or other method of removing earth material.

Ex Parte Communication. Any written or oral communication made outside of a public hearing and not included in the public record.

F. DEFINITIONS - SPECIFIC.

FAA. The Federal Aviation Administration.

Exhibit B

Facade. The vertical side or sides of a building facing city streets or pedestrian plazas.

Family. An individual, or two or more persons related by blood, or marriage, or a group of not more than six persons (excluding servants) who are not related by blood or marriage, living together in a dwelling unit or a foster family home, or an adult family home, as defined under Washington State law or administrative code.

Farmers Market. See Swap Meet.

FCC. The Federal Communications Commission.

Feed Lines. Cables used as the interconnecting media between the transmission/receiving base station and the antenna of a WCF.

Fence. A physical barrier used to prevent entrance or exit, or to mark a boundary.

Filling or Fill. Any depositing or stockpiling of earth materials.

Final Approval. The final official action taken by the Review Authority on a proposed subdivision, short subdivision, binding site plan, large lot subdivision, dedication, or other application requiring City approval.

Flashing Sign. See Sign, Animated.

Flea Market. See Swap Meet.

Flood Hazard Area. Those lands having a one percent or greater chance of flooding in any one year.

Floor Area. See Gross Floor Area.

Floor Area Ratio (FAR). The ratio of floor area permitted on a zoning lot to the size of the lot. 1:1 means a one story building can cover the entire buildable area of the lot, except in the Urban Waterfront Housing District, 1 FAR of commercial is allowed, while the remainder of the building (up to the allowed zoning height) must be residential.

Flush-Mounted Antenna. Any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

Food Stores. Stores primarily engaged in selling food and beverages for home preparation and consumption. It includes grocery stores; meat and fish markets, including freezer provisioners; fruit and vegetable markets; candy, nut, and confectionery stores; dairy products stores; retail bakeries; wine and beer shops; liquor stores;

Exhibit B

and miscellaneous stores specializing in items such as spices, coffee, or health foods. As an accessory use, a food store may also sell prepared products for on-site or off-site consumption.

Fraternity House. A building which is occupied by unrelated members of a private educational organization, and which contains sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room. (See Dormitory.)

Fraternal Organization. A group of people formally organized for a common interest, usually cultural, religious, or entertainment, with regular meetings, rituals, and formal written membership requirements. [NOTE: This is not a Fraternity.]

Front Wall. The wall of a structure nearest to the street upon which the structure faces, excluding cornices, canopies, eaves, or any other architectural embellishments.

Front Yard. See Yard, Front.

Frontage. The side(s) of a lot abutting a public rights-of-way.

Frontage Improvements. See Improvements.

Functions, beneficial functions or functions and values. The beneficial roles served by critical areas including, but not limited to: water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation, groundwater recharge and discharge; erosion control; wave attenuation; historical and archaeological value protection; and aesthetic value and recreation.

Funeral Parlors and Mortuaries. Businesses primarily engaged in conducting funerals and preparing the dead for burial, but not including crematoriums.

Furniture, Home Furnishings, and Appliance Stores. Businesses primarily engaged in the retail sale of goods used for furnishing the home, such as furniture, floor coverings, draperies, lighting fixtures, woodstoves, domestic cookstoves, refrigerators, and other household electrical and gas appliances. This category also includes rental of furniture, appliances, and the like. Consumer electronics such as televisions, stereo equipment, and personal computers are classified under Specialty Stores. Mini-computers and mainframe computers are classified under Office Supplies and Equipment Stores. (See also Specialty Stores.)

G. DEFINITIONS - SPECIFIC.

Gambling Establishment. A business primarily engaged in Class E and F (fee-charged and enhanced card room activities) and house-banked card games and similar activities as defined and regulated by the Washington State Gambling Commission.

Exhibit B

Garage. An enclosed detached or attached accessory building which is primarily used for the parking of vehicles. (See also Parking Facility.)

Garage, Commercial. A structure, or portion thereof, used primarily for the parking and storage of motor vehicles and available to the general public. (See also Parking Facility, Commercial.)

Garage, Private. Any building or portion thereof accessory to, or within, the principal building, and which is used or intended to be used by persons residing on the premises for the storage or parking of motor vehicles, boats and other permitted uses. (See also Carport.)

Gas Station. See Service Station.

General Merchandise Stores. Stores which sell a number of lines of merchandise in one store, such as department stores, warehouse buying clubs, variety stores, country general stores, drug stores, and the like. A store which primarily sells only prescription and over-the-counter drugs is defined as a Pharmacy.

Geographic Search Ring. An area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

Geologist. A person who has earned a degree in geology from an accredited college or university, or a person who has equivalent educational training and has experience as a practicing geologist.

~~Geotechnical engineer. A practicing, geotechnical/civil engineer licensed as a professional civil engineer with the State of Washington who has at least four years of professional employment as a geotechnical engineer evaluating landslides.~~

Golf Course. A private or public facility with extensive outdoor grounds designed for playing golf (typically 9 or 18 holes). Accessory uses may include a clubhouse, tennis and swim activities, and a driving range, but not to include riding stables. (See also Country Club).

Grade. The finished ground level adjoining the building at the exterior walls.

Grade Plane. A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building between the structure and a point six feet from the building.

Grading. Any excavating or filling of earth materials or any combination thereof.

Greenhouse. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity may be regulated for the cultivation of delicate or out-of-season plants for sale or personal enjoyment. (See also Nursery.)

Exhibit B

Grocery Store. A subcategory of food store which is primarily engaged in the retail sale of a wide variety of fresh foods, packaged foods and household supplies for preparation and consumption in the home. Commonly known as a supermarket, grocery store, or minimarket, this type of store sells such goods as tea, coffee, spices, sugar, flour and packaged foods; fresh and/or frozen fruits and vegetables; fresh and/or prepared meats, fish, and poultry; domestic cleaning products and paper goods; and miscellaneous small items for home use. See also "food store." A store which also sells a wide variety of non-grocery items (such as automotive supplies, consumer electronics, hardware, building materials, apparel, sporting goods or the like) as a major part of its sales (i.e., 30 percent or more of its display area) is classified as a "general merchandise store."

Gross Acreage. The total area within the lot lines of a lot or parcel of land before public streets, easements or other areas to be dedicated or reserved for public use are deducted from such lot or parcel.

Gross Floor Area. The area included within the surrounding exterior finished wall surface of a building or portion thereof, exclusive of courtyards.

Ground Area. See Gross Acreage.

Ground Cover. A variety of grasses or other low growing plants often cultivated to reduce soil and wind erosion.

Groundwater. Water in a saturated zone or stratum beneath the surface of land or below a surface water body.

Group Home. See Dwelling, Assisted Living.

Guest House. See Dwelling, Conventional.

H. DEFINITIONS - SPECIFIC.

Handoff Candidate. A wireless communication facility that receives call transference from another wireless facility, usually located in an adjacent first "tier" surrounding the initial wireless facility.

Hazardous Materials. Those materials which are acutely toxic, ignitable, corrosive, reactive, persistent, carcinogenic, or which leach hazardous constituents, as described in Chapter 173-303 WAC. Examples include, but are not limited to, pesticides, acids, paint strippers and antifreeze.

Hazardous Waste. Those wastes which are acutely toxic, ignitable, corrosive, reactive, persistent, carcinogenic, or which leach hazardous constituents or are specifically listed as hazardous waste, as described in Chapter 173-303 WAC. Examples include, but are not limited to, pesticides, acids, paint strippers and antifreeze.

Hazardous Waste, Extremely. Any dangerous waste which:

Exhibit B

a. Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form:

i. Presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic makeup of man or wildlife, and/or

ii. Is highly toxic to man or wildlife;

b. Is disposed of at a disposal site in such quantities as would present an extreme hazard to people or the environment. (See also Ash, Incinerator and Off-Site Treatment and Storage Facility.)

Health Fitness Centers and Dance Studios. Health clubs, aerobics centers, athletic clubs and gymnasiums, indoor tennis and swim clubs, handball and racquetball clubs, weight-reducing centers, dance studios, and other businesses primarily engaged in indoor health and recreation activities, whether on a membership basis or for the general public. (See also Commercial Recreation, Golf Courses, Country Clubs, and Riding Stables.)

Health Officer. That person of the Thurston County Health Department described as such in Chapter of 70.05 RCW or a duly authorized representative.

Hearing Examiner. See Examiner.

Hedge. A row of shrubs or low-branching trees planted close together that forms a sight-obscuring or obstructing barrier below seven feet above the ground.

Height, Building. The vertical distance from grade plane to the average height of the highest roof surface.

Herbicide. Any substance used to kill plants, especially weeds.

Heritage Commission. A commission charged with historic planning and preservation, consisting of members appointed by the City Council.

Heritage Register or Register. The listing of properties having special historic significance and is listed on the Olympia Heritage Register, and including listings on the Washington Heritage Register, or National Register of Historic Places.

Heritage Review Committee. A sub-committee of the Heritage Commission charged with reviewing proposed changes to properties on the Heritage Register or within a historic district, and with making recommendations on permit approval to the Building Official.

Historic Building. A building listed on the Olympia Heritage Register, the National Register of Historic Places and/or the Washington Heritage Register.

Exhibit B

Historic District. A geographically defined area containing buildings, structures, sites, objects and spaces linked historically through location, design, setting, materials, workmanship, feeling, and/or association. The significance of a district is the product of the sense of time and place in history that its individual components collectively convey. This sense may relate to developments during one period or through several periods in history.

Historic House Museum. A home owned by a public or registered nonprofit organization that has been placed on the National, local or State Register of Historic Places, and which is open to the public.

Historic Preservation Officer, Preservation Officer. The person designated by the Director to respond to requests for review and information relating to historic preservation and to be the primary staff liaison to work with the Heritage Commission.

Historic Resources. Any building, structure, object, district, area, or site that is significant in the history, architecture, archaeology or culture of this city, state, or nation, as identified by the Olympia Heritage Register, Washington Heritage Register, or the National Register of Historic Places.

Historic Site. A place where a significant event or pattern of events occurred. It may be the location of prehistoric or historic occupation or activities that may be marked by physical remains; or the site may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A site may be the location of a ruined or now nonexistent building, structure, or object if the location itself possesses historic, cultural, or archaeological significance.

Historic Sites (Registered). Those buildings, structures, districts, sites and objects which are on the City Heritage Register or the State or National Register of Historic Places. (See also Archaeological Sites.)

Home Occupation. A commercial use within a residential dwelling unit which is clearly incidental and accessory to the residential use of the property and complies with applicable provisions of this Title.

Hospice Care Center. See Dwelling, Assisted Living.

Hospital. A medical institution or facility within an integrated campus setting for the purpose of diagnosis, care, and treatment of human illness, including surgery, long-term and emergency medical treatment. (See also Office, Medical.)

Hotel. See Dwelling, Transient.

Human Scale. The size or proportion of a building element or space, or an article of furniture, relative to the structural or functional dimensions of the human body. For example, a brick is approximately the size of a human hand.

Exhibit B

Hydric Soil. A hydric soil is a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part. (~~USDA - NRCS 1995, Federal Register, 7/13/94, Vol. 59, No. 133, pp 35680-83~~). Hydric soils that occur in areas having positive indicators of hydrophytic vegetation and wetland hydrology are wetland soils, as defined by the Regional Supplement to the Corps of Engineers Wetland Delineation Manual; Western Mountains, Valleys, and Coast Region (Version 2.0) May 2010. ~~Washington State Wetlands Identification and Delineation Manual (1997), Ecology Publication #96-94, as amended or revised.~~

I. DEFINITIONS - SPECIFIC.

Impervious Surface. Pavement, including but not limited to, asphalt, concrete, and compacted gravel, roofs, revetments, and any other man-made surfaces which substantially impede the infiltration of precipitation. Exceptional pavements and other materials may be exempted in whole or in part by the Director.

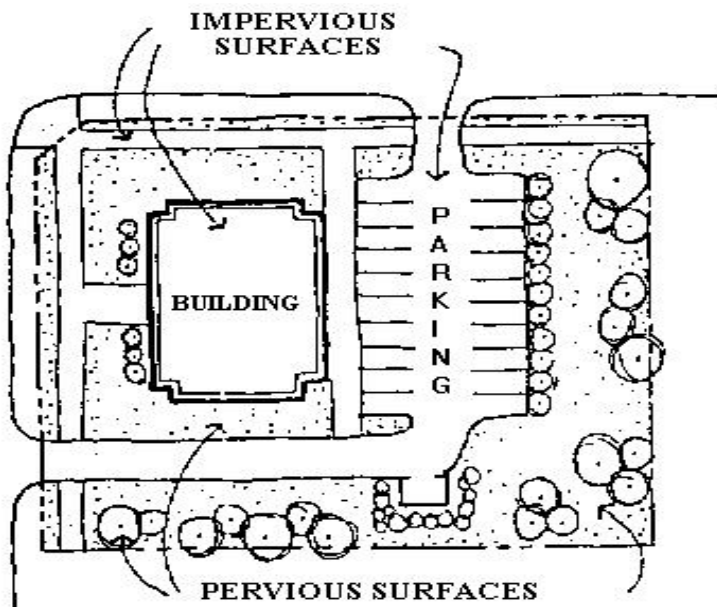


FIGURE 2-4

Important Habitat. See OMC 18.32.305.

Important Riparian Area. See OMC 18.32.405.

Important Species. See OMC 18.32.305.

Improvements. Any act which improves the value of public, real and personal property, or which is necessary as a condition of development, including but not limited to: streets and roads complying with the development standards and specifications adopted by the city; public utility and pedestrian facilities; street lights; landscape features; sewer and water lines; bridge structures; storm drainage facilities; and traffic control devices as are

Exhibit B

required to be installed as a part of subdivision, short subdivision, large lot subdivision, binding site plan, or commercial development. (See also Development.)

Incentives. A motivation or stimulus provided by government for public purposes, including but not limited to: compensation, rights or privileges or combination thereof which the City Council, or other local, state or federal public body or agency, by virtue of applicable present or future legislation, may be authorized to grant or obtain for the owner(s) of properties. Examples of economic incentives include but are not limited to tax relief, bonus densities, conditional use permits, rezones, street vacations, planned unit developments, transfer of development rights, facade easements, gifts, preferential leasing policies, private or public grants-in-aid, beneficial placement of public improvements, or amenities, or the like.

Industry, Heavy. The basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. This may include either Group F (factory and industrial) or Group H (hazardous) occupancies (types of buildings) under the Uniform Building Code. Other occupancies, such as Group M (mercantile) or Group S (storage), are allowed.

Industry, Light. A use engaged in the basic processing and manufacturing of materials or products predominantly from previously prepared materials or finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic processing of raw materials, except for food products. This also includes maintenance and service facilities for motor vehicle passenger transportation, such as for taxi fleets, public transit fleets, or school bus fleets. This may include Group F (factory and industrial)--but not Group H (hazardous)--occupancies (types of buildings) under the Uniform Building Code. Other occupancies, such as Group B (business) or Group S (storage), are allowed.

Infill Development. New development that occurs on vacant lots within areas already developed.

Inpatient Facility. A state-licensed facility providing board and room on a 24 hour per day basis as part of a treatment program for alcoholism, drug addiction, or other chemical dependency. The term includes shelters for qualified indigent alcoholics and/or drug addicts placed by chemical dependency assessment centers.

Interdisciplinary Team. A group of technical experts from the City of Olympia, other consulted agencies, and tribes which advises the Department on a specific development application.

J. DEFINITIONS - SPECIFIC.

Joint Review Committee. The committee comprised of representatives from the Heritage Commission and Design Review Board.

Exhibit B

Junk Yard or Salvage Facility. Primary or accessory use of structures and/or land for storage, recycling, dismantling and/or selling of cast-off, unused, scrap or salvage material of any sort.

K. DEFINITIONS - SPECIFIC.

Kennel. Any site where four or more dogs, cats, or other small animals over the age of four months are kept, whether such keeping is for pleasure, profit, breeding, or exhibiting, including places where said animals are boarded, kept for sale, or hire.

Kitchen. Any room or area, all or part of which is designed and/or used for storage, refrigeration, cooking and the preparation of food.

L. DEFINITIONS – SPECIFIC.

Lake. A naturally existing or artificially created body of standing water greater than twenty (20) acres in size. Lakes include reservoirs which exist on a year-round basis and occur in a depression of land or expanded part of a stream. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake's ordinary high water mark within the stream, where the stream enters the lake. All lakes meet the criteria of RCW Chapter 90.58 (Shoreline Management Act) and have been inventoried as "Shorelines of the State" found in the Shoreline Master Program for the Thurston Region in OMC 14.08.

Land Use Approval. A written approval or permit issued by the Director or Hearing Examiner, or designee thereof, finding that a proposed project is consistent with applicable plans, regulations and standards and authorizing the recipient to make use of property in a certain manner. The land use approval consolidates various non-construction permit reviews of a project such as design review, environmental review, zoning conformance, and site plan review. Land Use Approval is a permit which does not directly authorize construction or improvements to real estate, but which is a necessary and required precursor to authorization of such construction or improvement. Land Use Approval includes, but is not limited to, applications for review and approval of a preliminary or final subdivision, short plat, binding site plan, conceptual or detailed master planned development, planned residential development, conceptual design review, site plan review, conditional use permit, variance, shoreline development permit, or other such reviews pertaining to land use.

Land Use Approval, Administrative. A Land Use Approval which may be issued by an authorized official or body, usually the Director, without an open record predecision hearing.

Land Use Approval, Quasi-Judicial. A Land Use Approval issued by an authorized official or body, usually the Hearing Examiner, following an open record predecision hearing.

Landscape Plan. A component of a site development plan on which is shown: proposed landscape species (number, spacing, size at time of planting, and plant details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features;

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grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority.

Landscape Structure. A fence, wall, trellis, statue or other landscape and ornamental object.

Landscaping. An area devoted to or developed and maintained predominantly with native or non-native plant materials including lawn, groundcover, trees, shrubs, and other plant materials; and also including accessory decorative outdoor landscape elements such as ornamental pools, fountains, paved or decorated surfaces (excluding driveways, parking, loading, or storage areas), and sculptural elements.

Landslide. Episodic down-slope movement of a mass of soil or rock that includes but is not limited to rockfalls, slumps, mudflows, earthflows and snow avalanches.

Large Lot Subdivision. The division of land into lots or tracts, each of which is 1/128 of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land.

Laundry and Laundry Pick-up Agency. An enterprise where articles of clothing, linen, etc. are washed, including self-service laundries as well as those where customers drop off articles to be laundered either on or off the premises, or dry-cleaned off the premises only. This includes diaper services, but not the following, which are classified as Light Industrial uses: dry-cleaning plants, linen supply services, carpet and upholstery cleaning plants, and industrial launderers.

Legal Lot of Record. A lot of a subdivision plat or binding site plan or a parcel of land described in a deed either of which is officially recorded to create a separate unit of property, provided that such plat, site plan, or deed shall accord with applicable local, state or federal law on the date created. Separate descriptions of adjoining parcels within a single deed shall not necessarily constitute separate legal lots of record.

Local Improvement. A public improvement for the benefit of property owners provided to a specific area that benefits that area and that is usually paid for, at least in part, by a special assessment.

Lodging House. See Dwelling, Transient.

Lot. Lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall also include tracts and parcels. Lot classifications are as follows:

- a. Lot, Corner. A lot that abuts two (2) or more intersecting streets.
- b. Lot, Flag or Panhandle. A lot with less than thirty (30) feet of street frontage which is typically connected to a public or private street by a narrow driveway. A lot where access is only provided by a private easement is not a flag lot.

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c. Lot, Interior. A lot that has frontage on one public or private street only, or is provided access by a private easement.

d. Lot, Through. A lot that fronts on two (2) parallel or nearly parallel streets that do not intersect at the boundaries of the lot.

e. Lot, Wedge-shaped. A lot with a street frontage which is no more than half as wide as the lot's width at the rear property line, as depicted in Figure 2-5b.

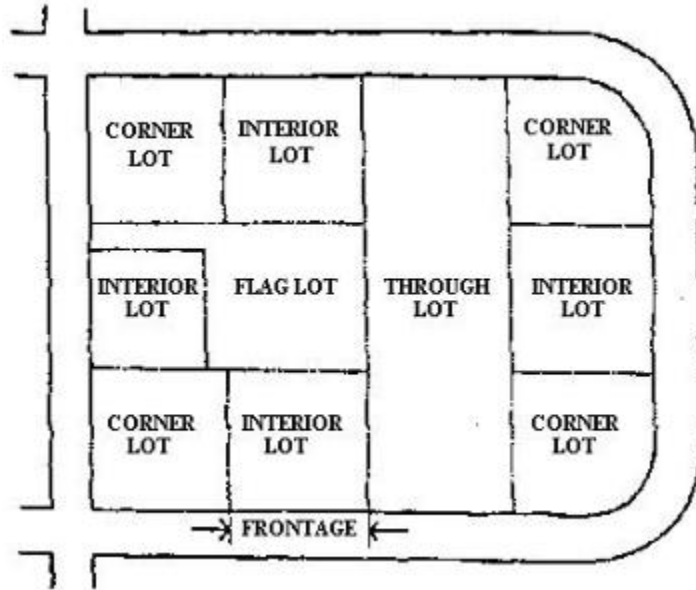
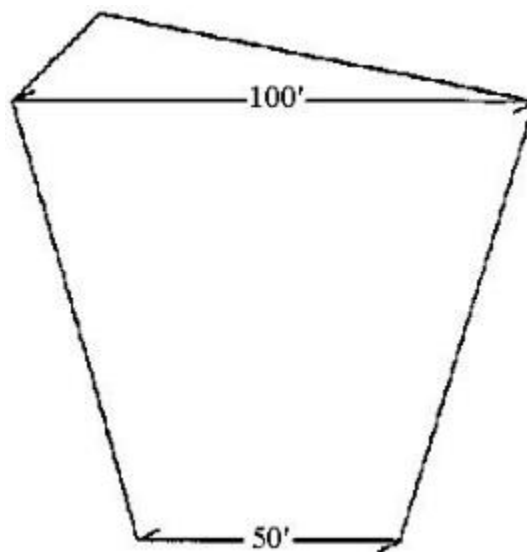


FIGURE 2-5



Example of a Wedge-Shaped Lot

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FIGURE 2-5b

Lot Frontage. See Frontage.

Lot Line. A line dividing one lot from another lot or from a street rights-of-way or alley. (See also Property Line.)

Lot of Record. A lot, the plat, or deed to which is officially recorded as a unit of property and is described by metes and bounds.

Lot, Substandard. A parcel of land that is less than the minimum area or minimum dimensions required in the zone in which the lot is located. (See also Minimum Lot Size, Undersized Lots in development standards.)

Lot Width. The straight line distance measured between side lot lines parallel to the front setback line. (See also Section 18.04.080(G)(1) and Table 4.04.)

Low Income Housing. See Affordable Housing.

M. DEFINITIONS - SPECIFIC.

Main Building. See Building, Maintenance.

Management Plan. See Specific or Management Plan.

Manufactured Home. See Dwelling, Conventional.

Marina/Boat Launching Facility. A facility for storing, servicing, fueling, berthing, launching and securing boats, which may include eating, sleeping, and retail facilities for owners, crews, and guests.

Marquee. A permanent covered structure, attached to and supported by a building, which protrudes outward.

Mass Wasting. A general term for a variety of processes by which large masses of rock or earth material are moved downslope by gravity, either slowly or quickly. Mass wasting can take the form of landslides, earth/debris flows and slumps, and rock falls/earth topples. The potential for mass wasting can be determined based on the surrounding topography, presence of slope-stabilizing vegetation and historical records.

Mean Sea Level Datum. The published mean sea level datum established by the U.S. Coast and Geodetic Survey (National Geodetic Survey).

Median. A paved or planted area separating a street or highway into two or more lanes of opposite direction of travel.

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Mental Health Facility. A private or public hospital, sanitarium, or other similar place which is licensed or operated under RCW 71.12 or RCW 72.23, and whose primary business is to receive or care for mentally ill or mentally incompetent persons.

Micro Brewery. A combination retail, wholesale and manufacturing business that brews and serves beer and/or food.

Ministorage. A building or group of buildings which may contain manager living quarters, office and individual, compartmentalized self-storage units, stalls, or lockers which are rented or leased for the storage of household or business goods, supplies or materials.

Mitigation. Methods used to alleviate or lessen the impact of development, including avoiding, minimizing, or compensating for adverse critical area impacts. Mitigation includes, but is not limited to, the following:

- a. Compensatory. The replacement of probable project-induced critical area losses including, but not limited to, restoration, creation or enhancement.
- b. Creation. A type of mitigation performed to intentionally establish a critical area (e.g. wetland) at a site where it does not currently exist.
- c. Enhancement. A type of mitigation performed to improve the condition of existing degraded critical areas (e.g. wetlands) so that the functions they provide are of a higher quality.
- d. Restoration. A type of mitigation performed to reestablish a critical area (e.g. wetland), or the functional characteristic and processes which have been lost by alterations, activities or catastrophic events within an area which no longer meets the definition of a critical area (e.g. wetland).

Mitigation, WCF. A modification of an existing antenna support structure to increase the height, or to improve its integrity, by replacing or removing one or several antenna support structure(s) located in proximity to a proposed new antenna support structure in order to encourage compliance with this ordinance or improve aesthetics or functionality of the overall wireless network.

Mixed Use Development. The development of a parcel or structure with two or more different land uses, such as a combination of residential, office, manufacturing, retail, public, or entertainment in a single or physically integrated group of structures.

Mobile Home. See Dwelling, Conventional.

Mobile, Manufactured and Modular Housing Sales. The sale of new or used mobile, manufactured, or modular housing. Sale of recreational vehicles and motor homes is classified under Motor Vehicle Sales.

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Mobile Vendor. A vendor that sells food, goods or services from a non-permanent location, and that is unrelated to the primary use of the property and readily movable at all times. (Does not include accessory uses, uses listed under a Festival and Event permit, busking, or uses such as ice cream or home delivery trucks that operate in constant motion within the street.)

Model Home. A home or homes used for the purpose of advertising various floor plans and styles of architecture found within a residential subdivision. Model homes are usually located on-site and are occupied only by a sales representative.

Modular Home. See Dwelling, Conventional.

Modulation. The measured proportional inflexion (stepping back and stepping forward) of a building facade.

Monitoring. The collection and analysis of data by various methods for the purposes of understanding and documenting changes in systems and features. "Monitoring" includes gathering baseline data, evaluating the impacts of development proposals on the biological, hydrologic and geologic elements of such systems and assessing the performance of required mitigation measures.

Motel. See Dwelling, Transient.

Motor Vehicle Dealer. A business engaged in the buying, selling, exchanging, or otherwise dealing in motor vehicle sales and service at an established place of business (see motor vehicle sales).

Motor Vehicle Franchise. One or more agreements, whether oral or written, between a manufacturer and a new motor vehicle dealer, under which the new motor vehicle dealer is authorized to sell, service, and repair new motor vehicles, parts, and accessories under a common name, trade name, trademark, or service mark of the manufacturer. "Franchise" includes an oral or written contract and includes a dealer agreement, either expressed or implied, between a manufacturer and a new motor vehicle dealer that purports to fix the legal rights and liabilities between the parties and under which (a) the dealer is granted the right to purchase and resell motor vehicles manufactured, distributed, or imported by the manufacturer; (b) the dealer's business is associated with the trademark, trade name, commercial symbol, or advertisement designating the franchisor or the products distributed by the manufacturer; and (c) the dealer's business relies on the manufacturer for a continued supply of motor vehicles, parts, and accessories.

Motor Vehicle Sales. A business primarily engaged in the sale of new and used autos, trucks, motorcycles, recreational vehicles, utility trailers, aircraft, snowmobiles, and the like.

Motor Vehicle Supply Stores. Auto supply stores, tire dealers, and the like. Firms which salvage used parts from inoperable vehicles are classified as Junk Yards and Salvage Facilities. Businesses primarily engaged in both selling and installing such automotive parts as mufflers and brakes are classified as Service Stations.

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N. DEFINITIONS - SPECIFIC.

National Register of Historic Places. The national listing of properties deemed significant because of their documented importance to our history and architectural, engineering or cultural heritage, as administered by the Department of the Interior under the National Historic Preservation Act of 1966.

Neighborhood Association. A group of people organized for the purpose of considering and acting upon any of a broad range of issues affecting the livability and quality of their neighborhood. A neighborhood association may be "recognized" by the City if it meets the minimum standards and applicable guidelines adopted by the City in Chapter 18.86 OMC.

Net Site Area. The total area within the lot lines of a lot or parcel of land after public street rights-of-way or other areas to be dedicated or reserved for public use are deducted from such lot or parcel.

Nonconforming Building or Structure. A building or structure or portion thereof which was lawfully erected or altered and maintained, but because of the application of this title no longer conforms to the yard, height or area requirements of the use district in which it is located.

Nonconforming Lot. A lot which does not conform with the provisions of this Title or Subdivision Code.

Nonconforming Use. An activity in a structure or on a tract of land that was legally established, but because of the application of this title no longer conforms to the use regulations of the district in which it is located.

Nonprofit Institutions. A charitable organization formed and devoted to performing public service or to further private benevolent endeavors.

Non-Profit Physical Facilities. Facilities for physical education activities such as sports or health fitness, which are owned and operated by a non-profit organization.

Normal Maintenance. Those usual acts to prevent a decline, lapse or cessation from a lawfully established condition.

Normal Repair. To restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction, except where repair involves a near or total replacement which is not common practice or causes substantial adverse effects to the environment.

Notice of Application. A written notice that a complete project permit application has been received by the City, including, at minimum, the date of application, the date of the notice of completeness of the application, the date of the notice of application, a description of the proposed project, a list of permits requested by the applicant, a list of any studies requested by the City, identification of other permits known to be required for the project but not requested by the applicant, identification of existing environmental documents evaluating the proposal, the location where the application and any studies can be reviewed, a statement of the public

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comment period, a statement of the right of any person to comment on the application, receive notice of and participate in any hearing, request a copy of the decision once made, and of any appeal rights, the date, time, place, and type of any hearing scheduled at the date of the notice, a statement of the preliminary determination of those development regulations that will be used for project impact mitigation, a statement of whether an environmental impact statement will be required and a statement of any preliminary determination of consistency with plans and regulations of the City. [See RCW 36.70B.110].

Notice of Decision. A written notice of the City's decision on a project permit application, including a statement of any SEPA threshold determination and any administrative appeals procedures.

Noxious Weed Control. Those activities subject to review or action by the Thurston County Noxious Weed Board under RCW 17.10.

Number. See Rounding of Quantities.

Nursery. Land or greenhouses used to raise flowers, shrubs, and plants for retail or wholesale. (See also Greenhouse.)

Nursing Home. See Convalescent Home, under Dwelling, Assisted Living.

O. DEFINITIONS - SPECIFIC.

Object. A thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Off-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes or special incinerator ash generated on properties other than the property on which the off-site facility is located. (See also current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.)

Office. A building or portion thereof which is primarily used to transact the administrative or professional activities of a business. Such uses include, but are not limited to: medical (excluding veterinary), dental, chiropractic, optometric, legal, banking, insurance, real estate, security brokers, administrative, public, contractors, consultants, corporate, or manufacturers' offices. (See also Home Occupation.)

Office, Bank. Banks, savings and loans, credit unions, and other depository institutions.

Office, Business. The offices of real estate agencies, mortgage brokers, advertising agencies, credit agencies, mailing services and postal substations, employment agencies, insurance agencies, membership organizations except fraternal organizations, accountants, attorneys, security brokers, financial advisors, architects, engineers, surveyors, tax preparation services, computer software development, and other similar business

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services. This may also include the administrative offices for businesses whose primary activity may be construction, manufacturing, utility services, or some other non-office use conducted elsewhere.

Office, Government. The legislative, administrative, service delivery, or judicial offices of local, state, or federal agencies. It also includes federal post offices where mail processing takes place for local delivery. It does not include government land uses such as maintenance facilities for government-owned trucks, busses, or heavy equipment which are a Light Industrial use.

Office, Medical. This includes the offices of doctors, dentists, chiropractors, optometrists, and other health practitioners providing outpatient care. It also includes medical and dental laboratories, blood banks, and the like.

Office Supplies and Equipment Stores. Stores selling office products such as stationery, legal forms, writing implements, typewriters, computers, copiers, office furniture, and the like.

Office Uses, General. A room or group of rooms used for conducting the affairs of a business and generally furnished with desks, tables, files, and communication equipment.

Office, Veterinary/Clinic. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use. (See also Animal Hospital.)

Olympia Coordinate System. The horizontal ground scale coordinate system referenced to the Washington Coordinate System as established by the City Public Works Department.

On-Site. Located on the same lot that is the subject of an application for development.

On-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes generated on the same property, see current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.

Open Record Hearing. A hearing conducted by a single hearing body or officer that creates the City's record through testimony and submission of evidence and information under procedures prescribed by this Title. [See RCW 36.70B.020(3)].

Open Record Appeal Hearing. A form of open record hearing held on request in response to a notice of decision when no open record predecision hearing was held on the project permit. [See RCW 36.70B.020(3)].

Open Record Predecision Hearing. A form of open record hearing held prior to the City's decision on a project permit. [See RCW 36.70B.020(3)].

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Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and may include such complementary structures and improvements as are necessary and appropriate.

Open Space, Public. Undeveloped public land that is permanently set aside (as opposed to regulated) to protect the special natural character of a particular location. Open space may include, but is not limited to wetlands; wetland buffers; creek, stream or river corridors; forested areas; ravines, bluffs or other geologically hazardous areas; and undeveloped areas within parks.

Ordinary High Water Mark (OHWM). (Also referred to as Ordinary High Water Line OHWL) Per WAC 22-110-020, the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland, provided that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater shall be the line of mean higher high water, and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood. OHWM is used to determine the location of standard buffer widths of streams as required under OMC 18.32.435(C)(1).

Ordinary Repair and Maintenance. Work for which a permit issued by the City is not required by law, and where the purpose and effect of such work is to prevent or correct any deterioration or decay of or damage to the real property or structure appurtenant thereto and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage.

Outdoor Storage. The keeping of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 consecutive hours.

Over Water. Location above the surface of the water, including placement of buildings on piling or floats.

Overlay Zone. A zoning district or specific plan that encompasses one or more underlying zones or areas and which imposes requirements in addition to those required by the underlying zone. (See also Overlay Districts in Article III.)

Owner of Property. The fee simple owner of real property according to Thurston County Auditor records.

P. DEFINITIONS - SPECIFIC.

Parcel. A parcel of land under one ownership that has been legally subdivided or combined and is shown as a single parcel on the most recent equalized assessment roll.

Park, Neighborhood. An area suited for passive and/or active family activities and play which may include facilities such as picnic table and shelters, barbecue pits, playground equipment, basketball backboards, small

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sized playfields, volleyball courts and tennis courts. Neighborhood parks can serve an urban design as well as recreational function and are a core feature of neighborhood centers.

Park, Public. A park, playground, swimming pool, beach, pier, reservoir, golf course or athletic field which is under the control, operation or management of the city, county, state, or federal government.

Parking, Combined. Two or more land uses or a multi-tenant building which merge parking needs to gain a higher efficiency in vehicular and pedestrian circulation.

Parking Facility or Lot. A land area, building or structure that is devoted primarily to the temporary parking or storage of vehicles for which a fee may or may not be charged, and where no service or repairs of any kind are furnished.

Parking Facility, Commercial. A parking facility available to the general public, for which a fee is charged on an hourly, daily, weekly, monthly, or other similar basis.

Parking, Shared. Two or more land uses or a multi-tenant building which merge parking needs based on different operating hours to gain a higher efficiency in vehicular and pedestrian circulation, economize space, reduce impervious surface and provide a superior grouping of building(s).

Parking Space. An area which is primarily intended for the temporary storage of vehicles and which meets the design requirements of this code.

Party of Record. The applicant and any person who prior to a decision has requested notice of the decision or submitted substantive comments on an application.

Passive Recreation. See Recreation, Passive.

Pedestrian-Oriented Business. A commercial enterprise whose customers commonly arrive at a business on foot, or whose signage, advertising, window display and entry ways are oriented toward pedestrian traffic. Pedestrian-oriented business may include restaurants, retail shops, personal service businesses, travel services, banks, (except drive-through windows), and similar establishments.

Pedestrian Plaza. An area between a building and a public street which promotes visual and pedestrian access onto the site and which provides pedestrian-oriented amenities and landscaping to enhance the public's use of the space for activities such as resting, gathering, reading and picnicking.

Pedestrian Street. Street devoted to uses and amenities which stimulate and reinforce pedestrian activities and visually interesting features at the pedestrian level. Uses are typically sidewalk oriented and physically and visually accessed by pedestrians from the sidewalks, are open during established shopping hours, generate walk-in pedestrian clientele and contribute to a high level of pedestrian activity. Such uses include, but are not limited to, retail shops, restaurants, personal services, day care facilities, banks, travel agencies, cinemas,

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theaters, amusement establishments, galleries, museums, public display spaces, drug stores, shoe repair shops, floral shops, hair shops, department stores, small hardware stores, and apparel shops. Visually interesting features include, but are not limited to, sculptures, display cases, landscaping, vendor stalls and carts, and architectural detailing.

Percolation. The downward flow or infiltration of water through the pores or spaces of rock or soil. (See also Impervious Surface.)

Performance Guarantee. A financial guarantee acceptable to the City Attorney to ensure all improvements, facilities, or work required by this ordinance will be completed in compliance with this ordinance, regulations, and approved plans and specifications.

Perimeter. The boundaries or borders of a lot, tract, or parcel of land.

Permitted Use. A use allowed by law in a use district and subject to the provisions applicable in that district.

Person. Any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, company, joint stock association, corporation, estate, trust, organization, business, business trust, public agency, school district, state or its political subdivisions or instrumentalities, syndicate or any group or combination thereof, acting as a unit, including any trustee, receiver or assignee.

Personal Services. A business primarily engaged in providing services generally involving the maintenance of the human body, or other services to one's person or household pets. Such businesses include, but are not limited to, barber and beauty shops, photographic studios, tanning parlors, massage practitioners, pet grooming, and obedience training. This does not include Medical Offices, Kennels or Veterinary Clinics. (See also Health Fitness Centers and Dance Studios.)

Personal Wireless Service. Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996 and 47 U.S.C. 332 and future amendments thereof.

Pesticide. Any chemical that is used to kill pests, especially insects and rodents.

Pet, Traditional. Animals which can be house-broken, walked on a leash, are frequently, but not necessarily, housed within the residence, or as a class judged neither obnoxious nor to pose a public safety or health threat. Traditional pet birds include song birds and parrots.

Pharmacies and Medical Supply Stores. Businesses primarily engaged in the sale of prescription and over-the-counter drugs, plus perhaps vitamins, first-aid supplies, and other health-related products. It also includes firms primarily engaged in the sale of medical equipment such as orthopedic or prosthetic devices, or equipment for home health testing. Pharmacies which also sell a wide variety of other types of merchandise,

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such as beauty products, camera equipment, small consumer electronics, giftware, food items, greeting cards, toys, housewares, and/or cleaning supplies are commonly known as "drug stores," and are classified as General Merchandise Stores.

Pigeons, Performing and Racing. Pigeons which are raised and used in the sport, hobby or competition of performing or racing; which require being released for freedom of flight for purposes of training, maintaining physical conditioning or competitive performance; and which are identified by a leg band containing the name or initials of the owner, or with an identification or registration number stamped on said band. Specifically included in this category are flying tipplers, tumblers, rollers and homing or racing pigeons.

Plat. A map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions or dedications.

Plat, Final. The final drawing or map of a subdivision and dedication, prepared for recordation with the County Auditor and containing all elements and requirements set forth in RCW Chapter 58.17 and in the City of Olympia Subdivision Ordinance.

Plat, Preliminary. A drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks and other elements of a subdivision consistent with the requirements of this code. The preliminary plat furnishes a basis for approval or disapproval of a general layout for a subdivision.

Plat, Preliminary Approval. The official action approving a proposed division of land, normally subject to the installation of improvements or fulfillment of conditions prior to final approval.

Plat, Short. The map or representation of a short subdivision containing all pertinent information required by Title 17, 18 and other applicable ordinances.

Portable Classroom. An accessory building/structure used for public, private or parochial education, and located on the same site as the principal building of instruction.

Principal Use. The primary or predominant use of any lot, building or structure.

Printing, Commercial. This includes shops specializing in printing small jobs for business clients or the general public, such as photocopying, offset printing, or screen printing of documents, announcements, business cards, or the like. This also may include blueprinting, computer plotting, and similar business services. These shops may engage in typesetting, photoengraving, plate-making, and other printing functions incidental to their primary activity; however, if they are primarily engaged in these functions as a service to other printing businesses, they are classified under Industrial Printing. Businesses which print books, magazines, newspapers, or other periodicals for others are classified under Industrial Printing.

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Printing, Industrial. Businesses which print books, magazines, newspapers, or other periodicals for others. It also includes printers of maps, posters, and the like; makers of business forms, looseleaf binders, and the like; and service industries for the printing trade, such as engraving, typesetting, photoengraving, electrotyping and stereotyping, lithographic platemaking, and related services.

Private School. See School, Private.

Private Utility. A privately owned enterprise that provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage and garbage collection or other similar public services.

Prohibited Use. A use that is not permitted in a zoning or land use district.

Project. A change in occupancy or modification or improvement of real estate, whether done by clearing, grading, or structure creation or modification in any manner requiring approval, licensing, or permitting by the City of Olympia.

Project Permit. Any land use or environmental permit or license required from the city for a project action, such as a building permit, preliminary or final plat approval, binding site plan approval, conditional use approval, shoreline substantial development permit, land use approval or a site specific rezone authorized by the Olympia Comprehensive Plan. Adoption or amendment of a comprehensive or other municipal plan, subarea plan, or development regulation or imposition of impact or other fee is not a project permit. [See RCW 36.70B.020(4)].

Project Permit Application. A formal written request to the City for a project permit on forms approved by the City Council.

Property Line. Any line bounding the ownership of a parcel of land.

a. Front property line. Any property line separating any parcel of land from the street rights-of-way. In case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line, provided such choice, in the opinion of the Building Official, will not be detrimental to the existing or future development of adjacent properties. In case of a through lot, both property lines abutting on a street are front property lines. In the case of a lot not abutting a street, the front property line is that line nearest to and roughly parallel with a street, provided that the Building Official may approve an alternative front line if it will not be detrimental to existing and future development.

b. Rear property line. Any property line that does not qualify as a front or side property line.

c. Side property line. Any property lines that intersect the front property line. These lines may intersect at any angle and be of any length. (See also Yards.)

Public Access (Shoreline). The physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water from upland locations. There are a variety of types of public access

Exhibit B

including picnic areas, pathways and trails (including handicapped accessible), floats and docks, promenades, viewing towers, bridges, boat launches, street ends, ingress and egress, parking, and others.

Public Art. Expressionistic forms, either man-made or natural, which are located for community view on private or public property.

Public Building. Any building, structure, facility, or complex used by the general public, whether constructed by any state, county, or municipal government agency or instrumentality or any private individual, partnership, association, or corporation, including, but not limited to, assembly buildings, such as auditoriums, libraries, public eating places, schools, and theaters; business buildings, such as offices; and factories and industrial buildings.

Public Facility. Land, buildings or structures operated by a municipal or other governmental agency to provide local protective, social, recreational, cultural, or mass transportation services directly to the general public. This includes police and fire stations, libraries, recreation facilities, bus transfer stations and park-and-ride lots. It also includes public land or buildings devoted solely to the storage of equipment and materials. It does not include facilities whose primary purpose is to provide administrative or judicial services, except as they may be incidental to the defined use, nor parking lots that are accessory to uses that would otherwise not be allowed in the underlying zone.

Public Hearing. A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

Public Meeting. An informal meeting, hearing, workshop or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the City's decision on the permit application. A public meeting may include a design review board meeting, a neighborhood association meeting, or a scoping meeting on a draft environmental impact statement. A public meeting is distinct from and does not include an open record hearing. [See RCW 36.70B.020(5)].

Public Notice. The advertisement of a public hearing or meeting in a newspaper of general circulation, or through other media such as site posting and direct mailing, indicating the time, place, and nature of the public hearing.

Public Project of Significant Importance. See OMC 18.66.090.

Public Safety Communications Equipment. All communications equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of the City and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

Public Services. Fire protection and suppression, law enforcement, public health, education, recreation, environmental protection and other governmental services.

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Public Use Area. An outdoor portion of a property that is dedicated to public use and which contains one or more of the following elements: benches, tables, lawns, public art, gardens, exercise or play equipment, or similar improvements or features. These elements are to provide the public with recreational activities in addition to the right to traverse or stand in this area.

Public Utility. An organization or government agency which provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage or garbage collection or other essential public services.

Publishing. Businesses which publish and print on their premises books, magazines, newspapers, or other periodicals. If such establishments do not perform printing on their premises, they are classified as Business Offices.

Q. DEFINITIONS - SPECIFIC.

Qualified Professional – A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and have at least five years of related work experience.

a) A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manuals and supplements, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans.

b) A qualified professional for habitat must have a degree in biology or a related degree and professional experience related to the subject species.

c) A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

d) A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

Quarry. A place where rock, ore, stone and similar materials are excavated and/or processed for sale or for off-site use.

Queue Lane. Area for temporary waiting of vehicles while obtaining a service or other activity such as drive-up windows.

R. DEFINITIONS - SPECIFIC.

Exhibit B

Radio Frequency Emissions. Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna support structure, building, or other vertical projection.

Radio, Television, or Communication Tower. A vertical structure that is intended to send or receive radio, or other wireless communications and to serve more than one user or an enterprise whose principal business is such communications. See Antenna.

Ravine. A narrow gorge that normally contains steep slopes and is deeper than ten (10) vertical feet as measured from the lowest point of the valley to the top of the slope.

Rear Yard. See Yard, Rear.

Reasonable Alternative. An activity that could feasibly attain or approximate a proposal's objectives, but with less environmental impact or decreased level of environmental degradation.

Recreation, Active. Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields.

Recreation, Commercial. A facility operated as a business which is designed and equipped for leisure-time activities such as theaters, bowling alleys, museums, aquariums, public and private recreational concessions, miniature golf, archery ranges, and amusement activities such as coin or token-operated machines, rides, or booths to conduct games. (See also Health Fitness Centers and Dance Studios, Golf Courses, Country Clubs, and Riding Stables.)

Recreation, Passive. Activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, card games, chess, checkers, or similar table games and activities which may involve educating the user.

Recreation Facility. A place designed and equipped for the purpose of sports and leisure-time activities.

Recreational Vehicle. A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for recreational or sporting purposes. The term recreational vehicle includes, but is not limited to, travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks or buses, boats and boat trailers, and all terrain vehicles.

Recreational Vehicle Park. Any lot or parcel of land upon which two or more recreational vehicles sites are located, established, or maintained as temporary living quarters for recreation or vacation purposes.

Recycling. The process by which waste products are collected and reduced to raw materials and transformed into new products.

Exhibit B

Recycling Facility. A facility for the collection and/or sorting and storage of recyclable materials generated from domestic or small business sources, such as bottles, cans, paper, cardboard, aluminum, and plastics. This definition does not include facilities for the processing of recyclable materials, which are classified as an industrial use. Recycling facilities are further divided into two categories: Type I Recycling Facilities include bins or other temporary or permanent facilities for the collection of small quantities of recyclable materials to be sorted and/or processed elsewhere. A Type I facility may be accessory to a primary use, such as a recycling bin at a grocery store parking lot. Type II Recycling Facilities include facilities primarily dedicated to the collection, sorting, or purchase and resale of recyclable materials.

Remodel. The alteration, restoration, reconstruction, addition to, structural modification, change of existing building footprint or internal floor plan that requires city approval or the issuance of any City permit.

Rental, Residence. The temporary rental of a single-family home for personal social events such as a wedding reception, private party or similar activity. (See also Temporary Uses.)

Replat. The further division of lots or the relocation of lot lines of any lot or lots within a subdivision previously approved and recorded according to law; or the alteration of any streets or the establishment of any new streets within any such subdivision, but not including conveyances, made so as to combine existing lots by deed or other instruction.

Restaurant. A use providing preparation and retail sale of food and beverages, including coffee shops, sandwich shops, ice cream parlors, fast food take-out, espresso stands, and similar uses. A restaurant may include licensed "on-site" provision of alcoholic beverages for consumption on the premises when accessory to such food service. A "drive-in" restaurant is one where all or a significant portion of the consumption takes place or is designed to take place with the patrons remaining in their vehicles while on the premises. A "drive-through" restaurant is one which has one or more drive-through lanes for ordering and dispensing of food and beverages to patrons remaining in their vehicles, for consumption off the premises.

Restoration. Measures taken to restore an altered or damaged natural feature including:

- a. Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and
- b. Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.

Restrictive Covenant. A restriction on the use of land usually set forth in the deed. [NOTE: Restrictive covenants usually run with the land and are binding upon subsequent owners of the property. However, some restrictive covenants run for specific periods of time.]

Exhibit B

Retail Trade. The selling of goods or merchandise to the general public for personal, business, or household consumption. The retail sales establishment is usually a place of business and is engaged in activity to attract the general public to buy goods. The establishment may also buy and receive goods. Retail sales includes services related to the retail goods. The establishment may process, repair, manufacture, and wholesale some of the products, such as jewelry, baked goods, beverages, apparel, pottery, or consumer electronics, but such processing, repair, or manufacturing must be associated with retail activities, be limited to rear or upper floor areas in the same building, and emit no loud noise or noxious odor. See Industry, Light.

Revision of Application, Minor. A change or correction by an applicant of a proposed project, either voluntarily or to conform with applicable standards and requirements, that does not, in the opinion of the Director, constitute a substantial change requiring reinitialization of the review process and period.

Revision of Application, Substantial. A change or correction by an applicant of a proposed project, either initiated voluntarily by the applicant or to conform with applicable standards and requirements, that in the opinion of the Director requires a new review process and period. For example, a change in a proposal which, as a result of changes in the proposed land use, substantially greater floor area or number of residential units, or substantial relocation of uses or structures, or the like, probably would result in significantly different impacts to the environment, upon public services or facilities, or to neighboring properties or land uses.

Review Authority. A person, committee, commission or council responsible for review and final action on a land use or development entitlement or permit.

Revolving Sign. See Sign, Animated.

Rezone. A change in the land use classification of a specific area to another use classification.

Right-of-Way - Improved. All of the right of way where any portion of it is used for motor vehicle travel.

Rights-of-Way. The right of one to use or pass over the property of another.

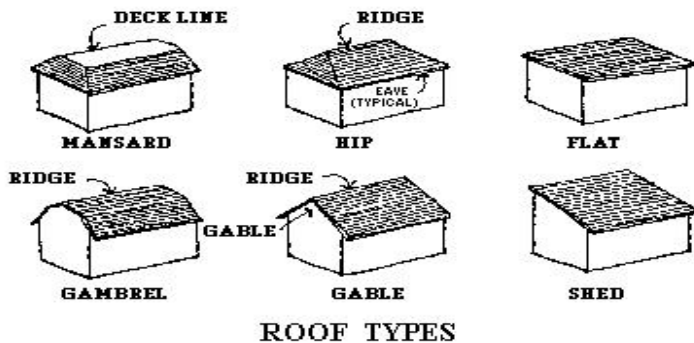


FIGURE 2-6

Exhibit B

Roof. The outside top covering of a building.

Rooming House. See Lodging House.

ROW. Rights-of-ways of public easements, roadways, streets, or other so defined public access locations.

Rummage Sale. An occasional or periodic market held in an open area or structure which is sponsored by schools, places of worship or other nonprofit organizations.

Run With The Land. A covenant, benefit or restriction of the use of land binding on present and future owners of the property.

S. DEFINITIONS – SPECIFIC.

Salmonid. A member of the fish family salmonidae, such as chinook, coho, chum, sockeye and pink salmon, rainbow, steelhead, cutthroat salmon, brown trout, bull trout, Brook and Dolly Varden char, kokanee and whitefish.

Sanitary Landfill. A site for solid waste (garbage) disposal.

Satellite Earth Station. A single or group of parabolic (or dish) antennas that are mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A satellite earth station may include the associated separate equipment cabinets necessary for the transmission or reception of wireless communications signals with satellites.

Scale, Architectural. The perceived height and bulk of a building relative to that of neighboring buildings. A building's perceived height and bulk may be reduced by modulating facades.

Scenic Vistas. Those areas which provide, for significant numbers of people, outstanding views from public rights-of-way of Mt. Rainier, the Olympic Mountains, Budd Inlet, the Black Hills, the Capitol Building, and Capitol Lake or its surrounding hillsides.

School. An institution of learning, whether public or private, which offers instruction in those courses of study required by the Washington Education Code or which is maintained pursuant to standards required by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.

Screening. A continuous fence or wall supplemented with landscaping, or an evergreen hedge or combination thereof, that effectively provides a sight-obscuring and sound-absorbing buffer around the property it encloses, and is broken only for access drives and walks.

Exhibit B

Sculptured Building Top. A building top which has:

- a. Reduced floor area on the upper floors; and
- b. A distinctive roof form such as pitched roof, hip roof, dome, chateau roof, tower, turret, pediment, dormers, or other distinctive forms. Roofline embellishments such as medallions, statuary, cornices, brackets, finials, or similar ornament would not be considered sculptured building tops; and
- c. Upper floors which are set back from the street wall.

Secretary of the Interior's Standards for the Treatment of Historic Properties, The (as amended). Guidelines adopted by the Secretary of the Department of the Interior to guide the rehabilitation, restoration or reconstruction of a historic property.

Section of Land. Measured 640 acres, one square mile, or 1/36 of a township.

Secure Community Transition Facility. A residential facility for persons civilly committed and conditionally released from a total confinement facility operated by the Secretary of Washington Social and Health Services or under contract with the Secretary pursuant to RCW 71.09.020(10) as described in RCW 71.09.250. All secure community transition facilities located within the City of Olympia shall conform with Olympia Municipal Code Subsection 18.08.080(E).

Seep. A spot where groundwater oozes to the surface. A small spring.

Service and Repair Shop. An establishment providing major repair and/or maintenance of motor vehicles, equipment or major appliances, including, but not limited to: mechanical repair, replacement of parts, body repair, painting, engine overhaul, or other major repair or maintenance, including operations which may require open flame or welding.

Service Stations. Businesses which sell gasoline or alternative vehicle fuels, and/or which may perform minor vehicle maintenance or repair, and/or wash cars. "Minor maintenance or repair" is limited to the exchange of parts and maintenance requiring no open flame or welding. Service stations include self-service gas stations, full-service gas stations, diesel fueling stations, oil change and lubrication shops, auto detailing shops, and car washes. Businesses which provide major repair work such as engine overhauls, vehicle painting, or body repair are classified as Service and Repair Shops.

Servicing of Personal Apparel and Equipment. A business primarily engaged in the upkeep of personal or small household belongings. Such businesses include, but are not limited to: tailors, locksmiths, piano tuners, or businesses which repair shoes, cameras, small appliances, or consumer electronics.

Setback. The distance between the building and any lot line. See specific zone district for allowed projections into setback areas and point of measurement. (See also Yard.)

Exhibit B

Setback Line. An imaginary line that establishes the required minimum distance from any lot line and defines the area where the principal structure must be erected. (See also Building Line, Yard, and Lot.)

Sewer. Any pipe or conduit used to collect and carry away sewage and sometimes stormwater runoff from the generating source to a treatment plant.

Sexual conduct.

- a. Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight; or
- b. Any penetration of the vagina or anus, however slight, by an object; or
- c. Any contact between persons involving the sex organs of one person and the mouth or anus of another; or
- d. Masturbation, manual or instrumental, of oneself or of one person by another; or
- e. Direct touching of the sex organs or anus, whether clothed or unclothed, of oneself or of one person by another; or
- f. Flagellation or torture in the context of a sexual relationship; or
- g. Sodomy.

Shopping Center. A commercial development with unenclosed pedestrian walks in which there are a number of separate commercial activities, with accessory shared facilities such as parking, and which is designed to provide a single area which the public can obtain varied products and services. Shopping centers are typically characterized by at least one large retail "anchor"store.

Shopping Mall. A shopping center with stores on one or both sides of a covered and enclosed pedestrian walkway.

Sidewalk. A paved, surfaced, or leveled area, paralleling and usually separated from the street and normally used as a pedestrian walkway.

Sign. Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means. Such means may include words, letters, figures, design, movement, symbols, fixtures, colors, illumination, or projected images.

Sign, Abandoned. Any sign which:

Exhibit B

- a. Is located on property which becomes vacant and unoccupied for a period of 12 consecutive months or more (excepting legal off-premise signs), or
- b. Relates to any occupant or business unrelated to the present occupant or their business (excepting legal off-premise signs), or
- c. Pertains to a time, event or purpose which no longer applies.

Sign, Animated. A sign with action or motion (including those that flash, oscillate or revolve) or one that involves color changes, illustrations or messages. This does not include wind activated elements such as flags or banners; nor does it include public service signs (such as time and temperature signs).

Sign Area. The entire background of a sign upon which advertising could be placed (counting all faces), including the frame but not other supporting structure, except that the area of advertising affixed directly to, or painted on a building without any background, other than the building, shall be the area contained in the smallest geometric figure enclosing all portions of the sign message (i.e., all letters, numbers, graphics, etc.).

Sign Awning. A sign which is on an awning. Awning signs are a type of building mounted sign.

Sign, Billboard. A rigidly assembled outdoor sign permanently affixed to the ground or permanently attached to a building or other permanent structure, unrelated to any use or activity on the property on which the sign is located, but not including directional signs as defined herein.

Sign, Building Mounted. A permanent sign which is attached to, or erected against or painted on, any exterior wall, fascia, or window of a building or structure. For the purpose of this Title, signs which shall be considered building mounted signs, include flush mounted signs, signs on marquees and awnings, projecting signs, and signs erected on the side of a mansard roof provided the sign does not project above the uppermost roof line or flashing.

Sign, Business Directory. A type of development identification sign which lists the names of the individual uses in a development.

Sign, Changeable Copy. See Sign, Readerboard.

Signs, Channel Letters. A flush mounted wall sign that consists of individual letters or characters not bound together in one complete structure. Channel Letter signs are signs in which each letter or character is mounted individually within its own area, with the total area of individual letters or characters comprising the sign.

Sign, Ground. A ground supported sign which is no greater than twelve (12) feet in height above grade.

Sign, Development Identification. A freestanding or building mounted sign which identifies the name of a development. For the purpose of sign standards, a development consists of multiple building complexes such

Exhibit B

as shopping malls, industrial and business parks, residential subdivision developments, and multiple occupancy buildings.

Sign, Directional. A sign designed solely to guide or direct pedestrian or vehicular traffic to an area, place or convenience.

Sign, Flashing. See Sign, Animated.

Sign, Flush-Mounted. A type of building mounted sign which and is attached to, or erected against any exterior wall or fascia of a building or structure, with the exposed face of the sign parallel to the plane of the wall.

Sign, Freestanding. A permanent sign supported by one or more uprights, poles or braces in or upon the ground. For the purposes of this Title, freestanding signs include pole signs and signs otherwise known as ground signs or monument signs.

Sign Height. The vertical distance from ground level to the top of the sign.

Sign, Identification. A pole or ground sign which identifies the name of a shopping center.

Sign, Inflatable. Balloons or other gas-filled figures. For purposes of this section, inflatable signs shall be treated as temporary signs.

Sign, Marquee. Any sign which forms part or is integrated into a marquee or canopy and which does not extend horizontally beyond the limits of such marquee or canopy.

Sign, Monument. See Sign, Freestanding.

Sign, Non-conforming. Any sign existing at the time of this Ordinance which does meet the provisions of Title 18.

Sign, On-Premises. A sign which carries advertisement related to a lawful use of the premises on which it is located, including signs indicating the business transacted, services rendered, goods sold or produced on the premises, name of business, name of the person, firm or corporation occupying the premises.

Sign, Out-of-Date. Signs for which the event, time, or purpose no longer applies.

Sign, Pole. A ground supported sign which is no less than twelve (12) and no greater than thirty (30) feet in height above grade.

Sign, Political. A sign for the purpose of advertising a candidate or candidates for public elective office, or a political party, or which promotes a position on a public or ballot issue.

Exhibit B

Sign, Portable (Mobile). A sign made of any material which by its design is readily movable and which is not permanently affixed to the ground, a structure or a building.

Sign, Projecting. A sign which projects 12 inches or more from a building and is supported by a wall or structure.

Sign, Public Service. A sign which provides a service to the public (such as indicating the current time and temperature or a community bulletin board) but which includes no advertising other than the name of the sponsoring organization.

Sign, Readerboard. A sign with characters or letters that can be manually changed without altering the face of the sign. Electronic signs are not readerboards for the purposes of this Title, but are animated signs.

Sign, Revolving. See Sign, Animated.

Sign, Roof. A sign erected upon or above a roof or parapet of a building or structure. A sign shall be considered a building mounted sign if it is erected on the side of a mansard roof and does not project above the uppermost roof line or flashing.

Sign, Sandwich Board Sidewalk Sign. A type of portable sign.

Sign, Structural Alteration. Any change or modification in the supporting members of the structure, such as the pole, cabinet, footing/foundation. Exceptions are new paint, rewiring, or face change.

Sign Structure. Any structure which supports or is capable of supporting any sign. A sign structure may be a single pole and may be an integral part of the building.

Sign, Temporary. Any sign, banner, pennant, valance or advertising display intended to be displayed for only a limited period of time.

Sign, Window. A sign permanently painted on or mounted to an exterior window (e.g., a neon sign). Window signs are a type of building mounted sign.

Exhibit B

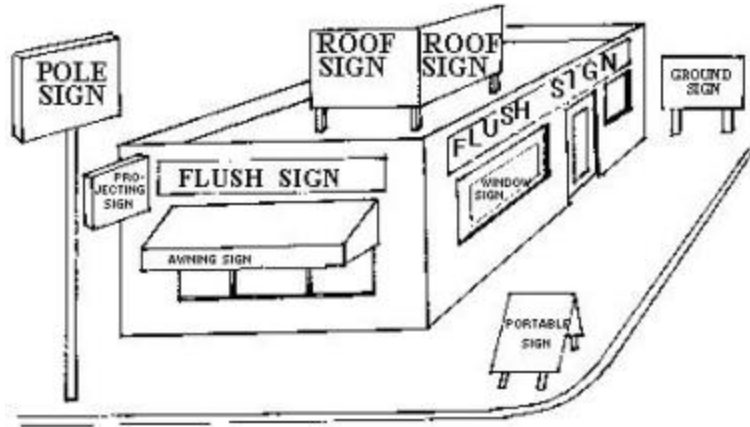


FIGURE 2-7

Significant. When used in the context of historic significance: A property which helps in the understanding of the history of the local area, state or nation (whichever is applicable) by illuminating the local, state-wide or nation-wide impact of the events or persons associated with the property, or its architectural type or style or information potential. The local area can include the City of Olympia, Thurston County, the region of Puget Sound or Southwest Washington, or a modest geographic or cultural area, such as a neighborhood. Local significance may apply to a property that illustrates a theme that is important to one or more localities; state significance to a theme important to the history of the state; and national significance to property of exceptional value in representing or illustrating an important theme in the history of the nation.

Single-Family Dwelling. See Dwelling, Conventional.

Single-Room Occupancy (SRO). See Dwelling, Conventional.

Site Plan. The development plan which shows the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that reasonably may be required in order that an informed decision can be made by the reviewing authority.

Site Plan Review Committee. A technical development review group comprised of representatives from the Department of Community Planning and Development, the Fire Department and the Public Works Department, who provide technical assistance to the CP&D Director or his/her designee on land use issues. At a minimum this includes the Building Official, Planner, City Engineer, Fire Chief, and SEPA official, or their appointed designees.

Slope. The deviation of a surface from the horizontal, usually expressed in percent or degrees. (See also Grade.)

Exhibit B

[NOTE: Percentage of slope is calculated by dividing the vertical distance by the horizontal distance times one-hundred (100).]

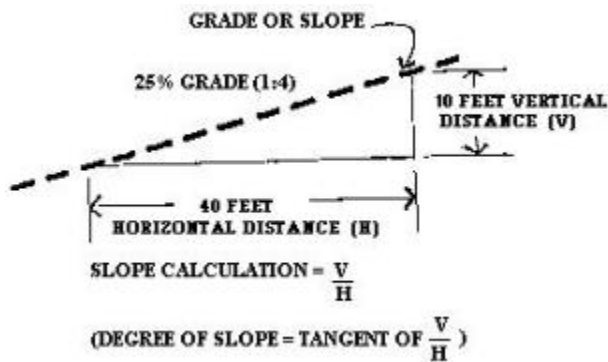


FIGURE 2-8

% GRADE	100	50	40	33.3	30	25	20	15	12	10	8	6
DEGREES	45	26.6	21.8	18.4	16.7	14	11.3	8.5	6.8	5.7	4.6	3.4
RATIO	1:1	2:1	2.5:1	3:1	3.3:1	4:1	5:1	6.7:1	8.3:1	10:1	12.5:1	16.7:1

Slope, Steep. An area which is equal to or in excess of 40 percent slope, or where the ground surface rises ten feet or more vertically within a horizontal distance of 25 feet. This can also include a slope of 15 to 39.9 percent if otherwise defined as a landslide hazard area.

Slope, Steep Toe, or Steep Top. A distinct topographic break in slope which separates slopes inclined less than forty (40%) percent from slopes equal to or greater than forty (40%) percent. Where no distinct break exists, this point shall be the limit of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty-five (25) feet.

Small Lake. See OMC ~~18.32.505~~ 18.32.305 C.

Small Lot Review. A Director review of proposed construction on undersized legal lots of record approved prior to June 19, 1995.

Small Lot Subdivision. See Subdivision, Short.

Sorority House. A building, occupied by unrelated female members of a private educational organization, which contains sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room. (See Fraternity, Dormitory.)

Special Assessment District. A district with the power to levy taxes created by act, petition, or vote of property owners for a specific purpose.

Exhibit B

Special Valuation for Historic Properties, Special Valuation. The process, pursuant to Chapter 84.26 Revised Code of Washington (RCW) and Chapter 3.60 OMC, under which the tax basis of an eligible, rehabilitated historic property may be reduced by the actual incurred cost of the rehabilitation for a period of up to ten years.

Specialty Stores. Stores selling antiques, sporting goods and bicycles, marine supplies, glassware and chinaware, books, videos (including rentals), music, cards and stationery, jewelry, toys, hobby supplies, cameras, gifts and souvenirs, sewing supplies, flowers, tobacco products, newspapers and magazines, art and art supplies, pets and pet supplies, religious supplies, consumer electronics, personal computers, or other miscellaneous goods. It also includes second-hand stores and pawnshops.

Specific or Management Plan. A plan consisting of text, maps, and other documents and exhibits regulating development within an area of special interest or which contains unique land use and development problems.

Spot Zoning. Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the comprehensive plan. [NOTE: Spot zoning is usually invalid when all the following factors are present: (1) a small parcel of land is singled out for special and privileged treatment; (2) the singling out is not in the public interest but only for the benefit of the land owner; and (3) the action is not in accord with a comprehensive plan.]

Stables, Riding. A structure providing shelter for horses, mules or ponies which are boarded for compensation. This may include arenas, tracks, and other facilities for equestrian activities either for members of a private club or for the general public. This may also include accessory facilities such as a clubhouse.

Stable, Private. An accessory structure providing shelter for horses or ponies, for use by occupants of the premises.

Staff. Permanent or temporarily employed personnel of the City of Olympia, Washington.

Stepback. Additional setbacks of upper building floor levels.

Storage. Placement or retention of goods, materials and/or personal property in one location for more than 24 consecutive hours.

Stormwater Facility. A constructed stormwater system component, including but not limited to a detention, retention, sediment, or constructed wetland basin or pond, generally installed at the ground surface.

Stormwater Retention/Detention Basin. A facility, either above-ground or underground, that temporarily stores stormwater prior to its release to the ground (retention facility), to a surface water (detention facility), or some combination of the two. [NOTE: Retention basins differ from detention basins in that the latter are temporary storage areas. Retention basins have the potential for water recreation and water-oriented landscaping since

Exhibit B

the water may remain. Both types of basins provide for controlled release of the stored water and groundwater recharge.]

Stormwater Retrofit Facilities. A stormwater treatment or flow-control facility that complies with the City of Olympia Drainage Design and Erosion Control Manual and is constructed by the City of Olympia for the purpose of providing treatment or flow-control in an area where little to none was previously provided.

Story. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

Story Above Grade. Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement is: more than six feet above grade plane, more than six feet above the finished ground level for more than 50% of the total building perimeter, or more than 12 feet above the finished ground level at any point.

Story First. The lowest above grade story in a building, except that a floor level in a building having only one floor shall be classified as a first story, provided such floor level is not more than four feet below grade, as defined herein, for more than 50 percent of the total perimeter, or more than eight feet below grade, as defined herein, at any point.

Stream. See OMC 18.32.405.

Stream Corridor. Any river, stream, pond, lake, or wetland, together with adjacent upland areas that support vegetation adjacent to the water's edge.

Street. A public or private rights-of-way which affords a primary means of vehicular access to abutting property.

Street, Arterial. An arterial street provides an efficient direct route for long-distance travel within the region and between different parts of the city. Streets connecting freeway interchanges to commercial concentrations are classified as arterials. Traffic on arterials is given preference at intersections, and some access control may be considered in order to maintain capacity to carry high volumes of traffic.

Exhibit B

Street Cul-De-Sac. A street with a single common ingress and egress and with a circular turnaround at the end.

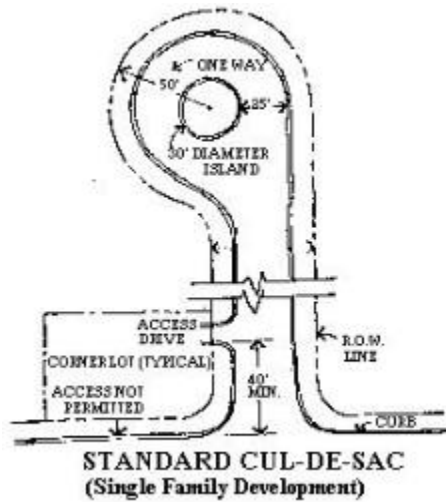


FIGURE 2-9

Street Frontage. The area between any lot lines which intersect, or area of a lot which directly abuts, the boundary of a public or private street rights-of-way.

Street Furniture. Constructed, above-ground objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains, and telephone booths, that have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to, and used by, the public.

Street, Local Access. A street which provides access to abutting land uses and serves to carry local traffic to a collector.

Street, Major Collector. A street that provides connections between the arterial and concentrations of residential and commercial land uses. The amount of through traffic is less than an arterial, and there is more service to abutting land uses. Traffic flow is given preference over lesser streets.

Street, Neighborhood Collector. A street which distributes and collects traffic within a neighborhood and provides a connection to an arterial or major collector. Neighborhood collectors serve local traffic, provide access to abutting land uses, and do not carry through traffic. Their design is compatible with residential and commercial neighborhood centers.

Street, Private. A street that has not been accepted for maintenance and public ownership by the City of Olympia or other government entity. This does not include private driveways or access easements.

Street Wall. A building wall that faces or is parallel to the street frontage.

Exhibit B

Streetscape. The visual character of a street as determined by various elements such as structures, greenery, open space, and view.

Structure. An edifice or building of any kind which is built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Structured Parking. A building or a portion of a building used for the parking of motor vehicles.

Subdivider. A person who undertakes the subdividing of land.

Subdivision. The division or redivision of land into ten or more lots, tracts, parcels, sites or divisions, any of which are less than five acres in area, for the purpose of sale, lease or transfer of ownership. (See also Subdivision, Short.)

Subdivision Cluster. See Cluster Subdivision.

Subdivision, Large Lot. The division of land into lots or tracts, each of which is 1/128 of a section of land or larger, or five acres or larger, if the land is not capable of description as a fraction of a section of land. For purposes of computing the size of any lot under this section which borders on a street, the lot size shall be expanded to include that area which would be bounded by the centerline of the street and the side lot lines of the lot running perpendicular to such centerline.

Subdivision, Short. The division or redivision of land into nine or fewer lots, tracts, parcels, sites or divisions for the purpose of transfer of ownership, sale or lease.

Subordinate. A supplementary use to a permitted primary or principal use.

Substantial Improvement. Any extension, repair, reconstruction, or other improvement of a property, the cost of which equals or exceeds fifty (50) percent of the fair market value of a property either before the improvement is started or, if the property has been damaged and is being restored, before the damage occurred.

Surface water. A body of water open to the atmosphere and subject to surface runoff.

Swap Meet. Any outdoor place, location, or activity where new or used goods or secondhand personal property is offered for sale or exchange to the general public by a multitude of individual licensed vendors, usually in compartmentalized spaces; and, where a fee may be charged to prospective buyers for admission, or a fee may be charged for the privilege of offering or displaying such merchandise. The term swap meet is interchangeable with and applicable to: flea markets, auctions, open air markets, farmers markets, or other similarly named or labeled activities; but the term does not include the usual supermarket or department store retail operations.

Exhibit B

T. DEFINITIONS - SPECIFIC.

Temporary Use. A use established for a specified period of time, with the intent to discontinue the use at the end of the designated time period.

Theater. A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

Time-of-travel. The time required for ground water to move through the water bearing zone from a specific point to a well.

Townhouse. See Dwelling, Conventional.

Toxic Substance. See Hazardous Materials or Hazardous Waste.

Tract. An area, parcel, site, piece of land or property. (See also Lot and Critical Area Tract.)

Traffic Impact Study. A report analyzing anticipated traffic flow conditions with and without proposed development. [NOTE: The report includes an analysis of mitigation measures and a calculation of fair share financial contributions.]

Trail. A paved or unpaved surface for pedestrian and/or bicycle commuting or recreational use, which may include sidewalks. Trails may be located parallel to an improved street, within a single development; or may inter-connect different areas by an off-street route.

Transfer of Development Right Sending Zone. The area designated by Thurston County from which development rights can be transferred.

Transferable Development Right. An interest in real property which is the difference between the existing use of a parcel and its potential development use expressed in residential units per acre. This right is made severable from the parcel to which the interest is appurtenant and transferable to another parcel of land for development and use in accordance with applicable regulations.

Transient. A continuous period of two weeks or less.

Transportation Demand Management. Strategies aimed at reducing the number of motor vehicle trips, shortening trip lengths, and changing the timing of trips to non-peak hours. [NOTE: These strategies encourage the use of mass transit, car pools, van pools, bicycling, and walking and typically focus on the home-to-work commute. They also include efforts to provide housing close to jobs to shorten trip lengths. These strategies often require the joint cooperation of developers, employers, and local governments.]

Exhibit B

Transportation Demand Management Plan. A system of actions and timetables to alleviate traffic problems through improved management of motor vehicle trip demand. (See also Transportation Demand Management.)

Tree. A self-supporting perennial woody plant characterized by one main stem or trunk of at least six inches diameter at breast height, or a multi-stemmed trunk system with a definite crown, maturing at a height of at least six feet above ground level.

Trip. A single or one-way motor vehicle movement either to or from a subject property within a study area.

Truck, Trailer, and Recreational Vehicle Rental. Businesses primarily engaged in short-term rental or extended-term leasing of trucks, truck-tractors, semi-trailers, moving vans, utility trailers, recreational vehicles, and the like. Finance (equity or full-payout) leasing of trucks, trailers, and recreational vehicles is classified with Motor Vehicle Sales.

U. DEFINITIONS - SPECIFIC.

Unavoidable and necessary impacts. Those impacts to critical areas that may result when a person proposing to alter such an area has demonstrated that no alternative exists for the proposed project.

Unusual Uses. Undefined land uses or activities resulting from advancing technology.

Upland. The area above and landward of the ordinary high water mark.

Use. The purpose, type and extent for which land or a building is arranged, designed, or intended, or for which either land or a structure is occupied or maintained.

Utility Facility. The physical infrastructure used by private and public utilities to provide service to their customers, e.g., lines, equipment, substations, pump station, and appurtenances. (See also Private Utility and Public Utility.)

Utility Line, Service or Distribution. Any utility line that extends from a main line and terminates at a building or structure.

Utility Line, Stormwater. A constructed stormwater system component, including but not limited to:

1. A ditch, swale, or similar component installed at ground surface, generally in a linear fashion with clearing and grading limited to 15 feet or less of lateral extent from the centerline;
2. A pipe, culvert, or similar component installed underground, generally in a linear fashion with clearing and grading limited to 15 feet or less of lateral extent from the centerline; or
3. A vault, manhole, catch basin/storm drain, or similar component, which:

Exhibit B

- a. Is installed underground,
- b. Is connected to one of the above-listed components, and
- c. Results in clearing and grading no more extensive than described above.

Utility Line, Transmission or Main. Any public or private utility line that provides service to numerous commercial, residential, public and/or industrial land uses.

V. DEFINITIONS - SPECIFIC.

Variance. A modification of the terms of this title that may be granted because of the unusual shape, exceptional topographic conditions or other extraordinary situation or condition in connection with a specific piece of property, where the literal enforcement of this title would involve practical difficulties and cause undue hardship unnecessary to carry out the spirit and intent of this title.

Vegetation - Hydrophytic. Vascular plant life and mosses which grow in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content as described in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands,(1989) as amended or revised.

Vegetation - Native. Plants species which have adapted over thousands of years to the weather, soil, and topography of Thurston County, Washington.

Vehicle. A device capable of being moved upon a public highway and in, upon, or by which persons or property are or may be transported or drawn upon a public highway, including automobiles, trucks, buses, motorcycles, trailers, and the like. The term includes bicycles, but does not include other devices moved by human or animal power (e.g., skateboards or horse-drawn wagons), nor devices used exclusively upon stationary rails or tracks.

Veterinary Clinic. See Office, Veterinary/Clinic.

View Corridor. An area at ground level providing views of the waterfront and other landforms of significance, unobstructed by permanent structures between a public street and the preserved. (See also Easement, Scenic.)

Village Center. That portion of an urban village, neighborhood village, or community oriented shopping center which is occupied by commercial, commercial/residential mixed uses, and associated uses such as parking or a village green or park.

W. DEFINITIONS - SPECIFIC.

Waiver of a Certificate of Appropriateness, Waiver. A letter or other document which allows the building or zoning official to issue a permit for demolition.

Exhibit B

Warehouse. A building primarily used for storage and distribution of products, equipment, or materials, which are not available for retail sale on the premises. "Warehousing" is the associated activity. Compare Mini-storage.

Welding and Fabrication. A business engaged in stamping or shaping pieces of metal which are then connected by heat until molten and fused, in order to manufacture, service, or repair sheet metal products.

Wellhead Protection Area. See OMC 18.32.205.

Wet pond. An artificial water body with a permanent water surface dug as a part of a surface water management system.

Wetland, habitat types or wetland types. Descriptive classes of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al 1978). These habitat types can include emergent, scrub-shrub or forested wetlands.

Emergent. A wetland with at least thirty (30) percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative stratum.

Forested. A wetland with at least twenty (20) percent of the surface area covered by woody vegetation greater than twenty (20) feet in height.

Scrub-shrub. A wetland with at least thirty (30) percent of its surface area covered by woody vegetation less than twenty (20) feet in height as the uppermost stratum.

Wetlands. See OMC 18.32.505.

Wetlands, Isolated. Those regulated wetlands which:

- a. Are outside of and not contiguous to any one hundred (100)-year floodplain of a lake, river or stream; and
- b. Have no contiguous hydric soil between the wetland and any surface water.

Wetlands Mitigation Bank. A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

Wetland - Mosaic. A wetland where each patch of wetland is less than one (1) acre; and each patch is less than one hundred (100) ft apart, on the average; and the areas delineated as vegetated wetland are more than fifty percent (50%) of the total area of the wetlands and the uplands together, or wetlands, open water, and river bars, all as defined in the Washington State Wetland Rating System for Western Washington (~~2004~~2014) as amended or revised.

Exhibit B

Wholesale Sales or Trade. Establishments or places of business primarily engaged in selling merchandise to retailers.

Wildlife blind. A structure no larger than two hundred (200) square feet used for the observation of wildlife.

Wireless Communication Facility (WCF). Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables, and equipment cabinets, and may include an antenna support structure. The following developments shall be deemed a WCF: developments containing new, mitigated, or existing antenna support structures, public antenna support structures, replacement antenna support structures, collocation on existing antenna support structures, attached wireless communications facilities, concealed wireless communication facilities, and non-concealed wireless communication facilities. Excluded from the definition are: non-commercial amateur radio, amateur ham radio and citizen band antennas, satellite earth stations and antenna support structures, and antennas and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities.

Specific types of WCFs include:

Attached WCF. An antenna or antenna array that is secured to an existing building or structure other than an antenna support structure - including light standards, transmission towers, utility poles, or the like - together with a) any accompanying pole or device which attaches it to the building or structure, b) transmission cables, and c) an equipment cabinet, which may be located either on the roof or inside/outside of the building or structure. An attached wireless communications facility is considered to be an accessory use to the existing principal use on a site. (See also Freestanding WCF.)

Concealed WCF, sometimes referred to as a stealth or camouflaged facility. A WCF, ancillary structure, or WCF equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two types of concealed WCFs: 1) attached and 2) freestanding. 1) Examples of concealed attached facilities include, but are not limited to the following: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure. 2) Concealed freestanding WCFs usually have a secondary, obvious function which may be, but is not limited to the following: church steeple, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree. (See also Non-concealed WCF.)

Freestanding WCF. Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, feed lines, and equipment cabinets, and may include an antenna support structure. A freestanding wireless communication facility includes, but is not limited to the following: guyed, lattice, or monopole antenna support structures. (See also Attached WCF.)

Exhibit B

Non-concealed WCF. A wireless communication facility that is readily identifiable as such and can be either freestanding or attached. (See also Concealed WCF.)

ROW Attached Structure. A special case of an attached WCF, this is defined as a pole or other structure primarily used as an electrical transmission support structure for electrical, telephone, cable, or other wired services that can be or has been configured to support the antenna(s) and feedlines of one or more wireless service providers for use as a WCF.

Wireless Communications. Any personal wireless service, which includes but is not limited to: cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), and unlicensed spectrum services utilizing devices described in Part 15 of the FCC rules and regulations (e.g., wireless internet services and paging).

Wireless Telecommunications Master Plan. A plan developed to enforce applicable development standards, state statutes, and federal regulations related to the deployment of wireless telecommunications infrastructure.

Workshops for Disabled People. Sheltered workshops and facilities which provide disabled people with opportunities for training, recreation, and/or employment. This may include assembly of products or any other activity allowed as a permitted use in the district.

X. DEFINITIONS - SPECIFIC.

Xeriscape. A landscape design which conserves water through creative landscaping. Principles of xeriscape design include reduction of turf areas and increased use of groundcover; grouping of plants with similar water needs; soil improvements to increase moisture and decrease evaporation; and use of drought tolerant plant materials.

Y. DEFINITIONS - SPECIFIC.

Yard. An open space on a parcel of land, other than a court, unobstructed and unoccupied from the ground upward, except for projections permitted by this code.

a. Front yard. A yard extending across the full width of the building site, having at no point less than the minimum required distance between the front property line and the building line.

b. Rear yard. A yard extending from one side property line to the other, except in the case of a corner building site when the rear yard shall extend from the interior side property line to the opposite side yard.

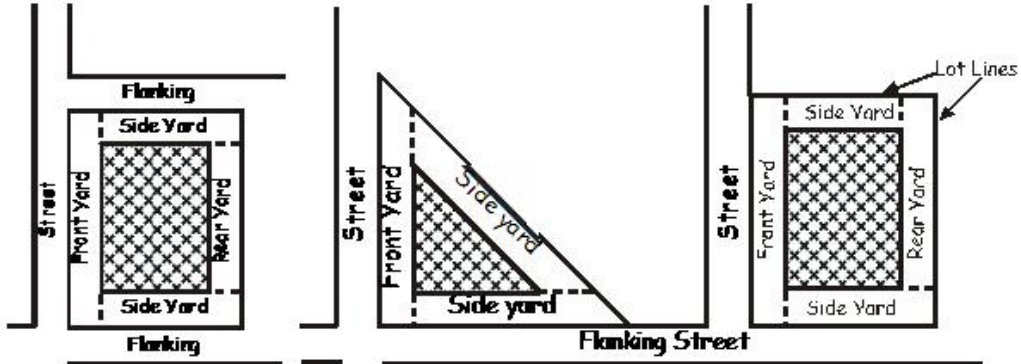
c. Side yard. A yard extending from the front yard to the rear yard, except in the case of a corner building site when the side yard on the flanking street shall extend to the rear property line. [NOTE: See Figure 2-10 for yard examples.]

Exhibit B

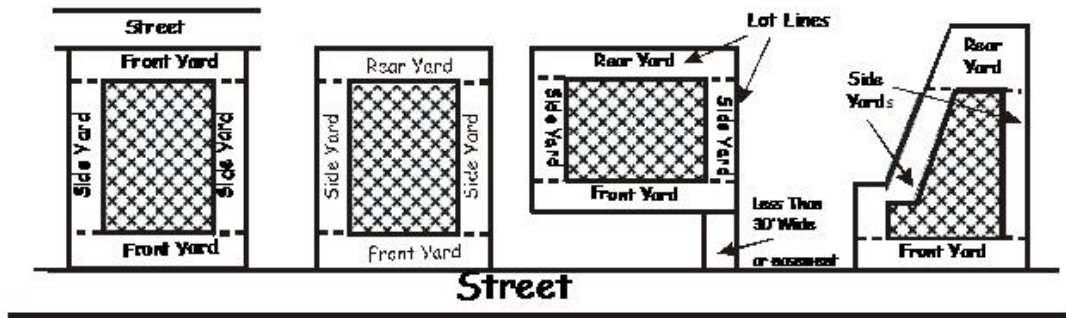
Year. Three hundred and sixty-five days in a normal year, or 366 in a leap year.

Z. DEFINITIONS - SPECIFIC.

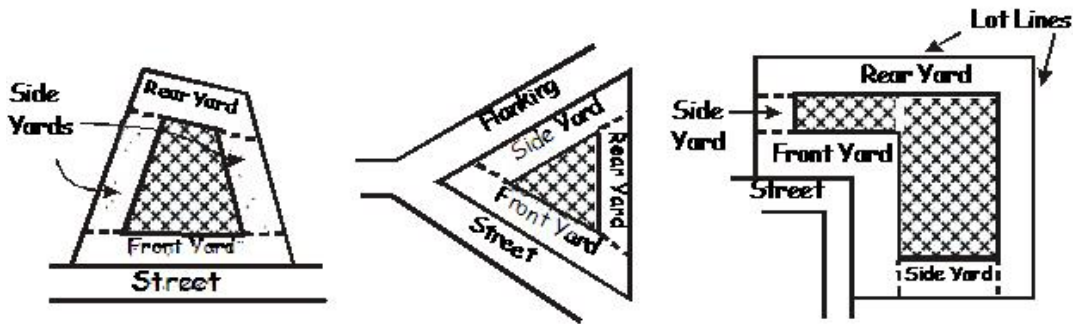
Zero Lot. A lot designed in such a manner that one (1) or more sides of the structure may rest directly on or near a side lot line.



CORNER LOT EXAMPLES



INTERIOR LOT EXAMPLES



**ODD-SHAPED LOT EXAMPLES
REQUIRED YARDS**

 **Building (Zoning) Envelope (Two Dimensional)**

Exhibit B

FIGURE 2-10

Exhibit C

18.37.070 Nonconforming Structures and Uses Within Critical Area Buffers

- A. Existing structures and uses. Existing structures and uses which are located within a critical area or its buffer prior to the effective date of Chapter 18.32, which is June 20, 2005, may continue pursuant to the provisions of this Chapter.
- B. Appurtenant structures and related development. ~~Existing structures located within a critical area or its buffer as provided in OMC 18.37.070(A),~~ If there is no negative impact to critical area buffers, the Department may include as "existing structures and uses," pursuant to OMC 18.37.070(A) appurtenant structures and related development such as but not be limited to: garages, out-buildings, lawns, landscaping, gardens, sports fields, sport courts, picnic areas, play equipment, trails and driveways which also existed prior to the effective date of Chapter 18.32.
- C. Critical area review. That portion of a parcel which contains existing structure, appurtenant structures, and related development as defined by OMC 18.37.010(A) and 18.37.070(B), shall be exempt from further review of OMC Chapter 18.32, except as provided in OMC 18.32.215. Expansion or additions of structures and uses listed in OMC 18.37.070(A) and 18.37.070(B) into undisturbed parts of the property which are within a critical area or its buffer will require a critical area review per OMC Chapter 18.32.



City Council

Briefing on the Preliminary Capital Facilities Plan (CFP)

Agenda Date: 7/19/2016
Agenda Item Number: 6.C
File Number: 16-0844

Type: report **Version:** 1 **Status:** Other Business

Title

Briefing on the Preliminary Capital Facilities Plan (CFP)

Recommended Action

Committee Recommendation:

The Finance Committee had a briefing on July 13. There are no recommendations to forward at this time.

City Manager Recommendation:

Receive the briefing, and concur with forwarding of the Preliminary CFP to the Planning Commission for review and comment.

Note: Copies of the Preliminary CFP will be distributed to Councilmembers at the meeting and posted on the City's website (olympiwa.gov) for online access and viewing the morning of July 22.

Report

Issue:

Whether to forward the CFP as presented to the Planning Commission for review and comment.

Staff Contact:

Jane Kirkemo, Administrative Services Director, 360.753.8499

Presenter(s):

Jane Kirkemo, Administrative Services Director

Background and Analysis:

The City Manager is required to present a six-year CFP to the City Council for adoption. The CFP must be balanced (revenues received realistically pay for proposed projects). Such planning involves determining when and where the facilities will be needed, and how much they will cost to construct and maintain.

Since the City of Olympia collects impact fees for the Olympia School District, their CFP must be incorporated into our CFP document before final adoption. Their preliminary CFP has been included. In addition, any Thurston County projects within the boundaries of the Olympia Urban Growth

Management Area should be included in the final document for reference.

The six-year plan is 3% more than the current plan. The largest single increase reflects including a portion of the Metropolitan Park District funding in the Parks section of the CFP.

The Preliminary CFP assumes 100% of the Real Estate Excise Tax money will be spent on capital projects.

Neighborhood/Community Interests (if known):

Comments are welcome from all members of the public throughout the review process. As in past years, Olympia advisory committees and the Coalition of Neighborhoods are encouraged to review and comment on the draft CFP throughout the process.

Options:

1. Forward the Preliminary CFP as presented to the Planning Commission for review and comment.
2. Amend the Preliminary CFP prior to submitting to the Planning Commission for review and comment.

Financial Impact:

The 2017-2022 CFP is \$142.1 million for a 3% increase. The 2017 budget is \$25.7 million. The CFP includes establishment of a Metropolitan Park District with collections beginning in May 2017. Also, this document reflects an increase in the Transportation Benefit District authorized by the State in 2016.