Ordinance No. 05-11 Exhibit A

City of Covington's FINAL Shoreline Master Program:

Goals and Policies
Environment Designations
Development Regulations

City of Covington

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Chapter 1 Introduction

History and Requirements of the Shoreline Management Act

Washington's **Shoreline Management Act** (Act) was adopted by the public in a 1972 referendum "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." The Act has three broad policies:

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

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

The primary purpose of the Act is to provide for the management and protection of the state's shoreline resources by planning for reasonable and appropriate uses. In order to protect the public interest in preserving these shorelines, the Act establishes a coordinated planning program between the state and local jurisdictions to use in addressing the types and effects of development occurring along the state's shorelines. By law, the City is responsible for the following:

1. Development of an inventory of the natural characteristics and land use patterns along shorelines covered by the act.
2. Preparation of a "Master Program" to determine the future of the shorelines.
3. Development of a permit system to further the goals and policies of both the act and the local Master Plan.
4. Development of a Restoration Plan that includes goals, policies and actions for restoration of impaired shoreline ecological functions.

Master Program Development and Public Participation

The City of Covington (City) obtained a grant from the Washington Department of Ecology (Ecology) in 2007 to conduct a comprehensive Shoreline Master Program (SMP) update. The first step of the update process was to inventory the City's shorelines as defined by the state's Shoreline Management Act (SMA) (RCW 90.58). The inventory describes existing biological and physical conditions. These conditions were then analyzed and characterized to create a baseline from which future development actions in the shoreline will be measured.

Environmental designations were identified for the different shoreline reaches and goals, policies, and regulations for each were developed.

The Guidelines require that the City demonstrate that its updated SMP yields "no net loss" in shoreline ecological functions relative to the baseline due to its implementation. Ideally, the SMP in combination with other City and regional efforts will ultimately produce a net improvement in shoreline ecological functions.

Purposes of the Shoreline Master Program

The purposes of this Master Program are:

1. To carry out the responsibilities imposed on the City of Covington by the Washington State Shoreline Management Act (RCW 90.58).
2. To promote the public health, safety, and general welfare, by providing a guide and regulation for the future development of the shoreline resources of the City of Covington.
3. To further, by adoption, the policies of RCW 90.58, and the goals of this Master Program, both which hereafter follow.

Legislative Findings and Washington Shoreline Management Policies

The Washington State Legislature finds the shorelines of the state are among the most valuable and fragile of its natural resources and there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition, it finds that ever increasing pressures of additional uses are being placed on the shorelines, necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and uplands adjacent thereto are in private ownership and that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to ensure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in navigable water, will promote and enhance the public interest. This policy is intended to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the water of the state and its aquatic life, while generally protecting public rights of navigation and its associated activities.

How the Shoreline Master Program is Used

The Covington Shoreline Master Program is a planning document that outlines goals and policies for the shoreline of the city and establishes regulations for development occurring in that area.

In order to preserve and enhance the shoreline of Covington it is important that all development proposals relating to the shoreline area be evaluated in terms of the City's Shoreline Master Program, and that the City Shoreline Administrator be consulted. Some developments may be exempt from permitting, while others may need a substantial development, conditional use or variance permit; ALL proposals must comply with the policies and regulations established by the state Shoreline Management Act as expressed through this local Shoreline Master Program adopted by the City of Covington.

The Shoreline Management Act and Shoreline Master Program Guidelines define for local jurisdictions the content and goals that should be represented in the Shoreline Master Programs developed by each community; within these guidelines, it is left to each community to develop the specific regulations appropriate to that community. Under the Act, all shorelines of the state meeting the criteria established receive a given shoreline environmental designation. The purpose of the shoreline designation system is to ensure that all land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and provides consideration for the special requirements of that environment. Covington has designated its Big Soos Creek, Jenkins Creek and Pipe Lake shorelines under four shoreline environments: Urban Conservancy, Shoreline Residential, Medium Intensity, and High Intensity. These environments are described in Chapter 5: Shoreline Environments.

Persons proposing any shoreline development, land use, or other projects in the shoreline area must consult with the City of Covington Shoreline Master Program Administrator (the City's Community Development Director) to determine how the proposal is addressed in the Master Program.

The City's Shoreline Administrator can provide assistance in identifying if a proposal is exempt from the permit process, as well as provide information on the permit application process.

Requests for a variances, conditional use permits, and substantial development permits require review by the Covington Planning Director. Requests for conditional uses and variances require final approval by the State of Washington Department of Ecology. A description of exempt projects, shoreline application procedures and criteria are discussed in Chapter 8: Administration.

A description and map of the area within the jurisdiction of this Shoreline Master Program are presented in Chapter 5: Shoreline Environments.

Organization of this Shoreline Master Program

This Master Program is divided into eight Chapters:

Chapter 1: Introduction provides general background information on the state Shoreline Management Act; the development of the Shoreline Master Program in Covington; and a general discussion of when and how a shoreline master program is used.

Chapter 2: Definitions defines terms found in this document.

Chapter 3: Shoreline Management Goals and Policies lists the general goals and policies which guide the more detailed policies and regulations found in the individual section of the Covington Shoreline Master Program.

Chapter 4: General Policies and Regulations set forth the general policies and regulations that apply to uses, developments, and activities in *all* shoreline areas of Covington.

Chapter 5: Shoreline Environments defines and maps the shoreline jurisdiction in the City of Covington and defines and maps the environment designations of all the shorelines of the state in the City of Covington. Policies and regulations specific to the four designated shoreline environments, (Urban Conservancy, Shoreline Residential, Medium Intensity, and High Intensity) are detailed in this chapter.

Chapter 6: Specific Shoreline Use Policies and Regulations sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas. The policies and regulations cover the following uses and activities: Agriculture, Aquaculture, Commercial Development (Primary and Accessory), Industrial Development, Mining, Parking (as a primary use), Recreational Facilities, Residential Development, Scientific, Historical, Cultural, or Educational Uses, Signage, Transportation, and Utilities (Primary and Accessory).

Chapter 7: Shoreline Modification Activity Regulations provides policies and regulations for those activities that modify the physical configuration or qualities of the shoreline area.

Chapter 8: Administration provides the system by which the Covington Shoreline Master Program will be administered, and provides specific information on the application process and criteria used in evaluating requests for shoreline substantial development permits, conditional use permits, and variances.

Appendix A contains the adopted Critical Areas Regulations that apply to all critical areas and their buffers contained within shoreline jurisdiction.

Appendix B contains the adopted Flood Damage Prevention Regulations that apply to all 100-year floodplains contained within the shoreline jurisdiction.

Appendix C contains the Shoreline Restoration Plan as directed under WAC 173-26.

Relationship of this Shoreline Master Program to Other Plans

The permitting process for a shoreline development or use does not exempt an applicant from complying with any other local, state, regional or federal statutes or regulations which may also be applicable to such development or use. In Covington, other plans and policy documents that must be considered include the Covington Comprehensive Plan and the King County Surface Water Design Manual. Critical Areas within shoreline jurisdiction are regulated by the City of Covington Critical Areas Regulations for Shoreline Jurisdiction, as contained in Appendix A. Although these regulations are similar to the Critical Areas Regulations codified in Chapter 18.35 of the Covington Municipal Code, pursuant to the requirements of the Shoreline Management Act, these regulations are distinct. Please note that certain key critical area provisions, including the Reasonable Use Exception, do not apply in shoreline jurisdiction. Instead, deviations from the Critical Areas Regulations as set forth in Appendix A are processed as a shoreline variance (see Chapter 8: Administration for discussion of shoreline permits). If there are conflicts between the regulations contained in the SMP, those that are the most protective of shoreline ecological functions will apply.

Proposals must also comply with the regulations developed by the City to implement its plans, such as the zoning code, as well as regulations relating to building construction and safety.

At the time of a permit application or of an initial inquiry, the City Shoreline Administrator should inform the applicant of those regulations and statutes which may be applicable to the best of the administrator's knowledge; PROVIDED, that the final responsibility for complying with such other statutes and regulations shall rest with the applicant.

Title

This document shall be known and may be cited as the City of Covington Shoreline Master Program. This document may refer to itself as "this SMP."

Chapter 2 Definitions

Accessory use or accessory structure - Any subordinate use, structure, or building or portion of a building located on the same lot as the main use or building to which it is accessory.

Accretion - The growth of a beach by the addition of material transported by wind and/or water. Included are such shore forms as barrier beaches, points, spits, and hooks.

Act - The Shoreline Management Act (Chapter 90.58 RCW and WAC 173-27-030(1)).

Adjacent lands - Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). The SMA directs local governments to develop land use controls (i.e. zoning, comprehensive planning) for such lands consistent with the policies of the SMA, related rules and the local shoreline master program (see Chapter 90.58.340 RCW).

Administrator - The City Community Development Director or his/her designee, charged with the responsibility of administering the shoreline master program.

Agriculture - The cultivation of the soil, production of crops, and/or raising of livestock, including incidental preparation of these products for human use. In all cases, the use of agriculture related terms shall be consistent with the specific meanings provided in WAC 173-26-020.

AKART - An acronym for "all known, available, and reasonable methods of prevention, control, and treatment" (WAC 173-201A-020). AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution.

Anadromous fish - Species, such as salmon, which are born in fresh water, spend a large part of their lives in the sea, and return to freshwater rivers and streams to procreate.

Appurtenance - A structure or development which is necessarily connected to the use and enjoyment of a single family residence and is located landward of the ordinary high water mark and also of the perimeter of any wetland. (On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field, and grading which does not exceed two hundred fifty cubic yards (250) [except to construct a conventional drain field] and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark) (see WAC 173-27-040(2)(g)).

Aquaculture - The commercial cultivation of fish, shellfish, and/or other aquatic animals or plants including the incidental preparation of these products for human use.

Aquascreens - A fiberglass screen used as a bottom barrier to limit and/or control aquatic plant growth. The screen is typically anchored to an area of the lake bottom and functions as a physical barrier to prevent plants from growing on the lake bottom.

Archaeological - Having to do with the scientific study of material remains of past human life and activities.

Architectural Standards - Rules, regulations, or guidelines relating to the design, size, configuration or location of buildings and structures including setbacks, height, and bulk restrictions. It may include other structural design or configuration conditions required as part of a variance or conditional use permit intended to improve the compatibility between adjacent structures, activities, or uses.

Associated Wetlands - Those wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act. Refer to WAC 173-27-030(1).

Average grade level - The average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure; provided that in case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure (WAC 173-27-030(3)).

Baseline - The existing shoreline condition, in terms of both ecological function and shoreline use, established at the time this Shoreline Master Program is approved.

Best available science - Current scientific information used in the process to designate, protect, or restore critical areas, that is derived from a valid scientific process as defined by WAC 365-195-900 through 925.

BMPs - see Best Management Practices.

Beach - The zone of unconsolidated material that is moved by waves, wind and tidal currents, extending landward to the coastline.

Beach enhancement/restoration - Process of restoring a beach to a state more closely resembling a natural beach, using beach feeding, vegetation, drift sills and other nonintrusive means as applicable.

Beach feeding - "Beach feeding" means landfill deposited on land or in the water to be distributed by natural water processes for the purpose of supplementing beach material.

Benthic organism - Organisms that live in or on the bottom of a body of water.

Benthos - Benthos are living organisms associated with the bottom layer of aquatic systems, at the interface of the sediment (or substrate) and overlying water column. Benthos commonly refers to an assemblage of insects, worms, algae, plants and bacteria.

Berm - A linear mound or series of mounds of sand and/or gravel generally paralleling the water at or landward of the line of ordinary high tide. Also, a linear mound used to screen an adjacent activity, such as a parking lot, from transmitting excess noise and glare.

Best Management Practices (BMPs) - BMPs are methods of improving water quality that can have a great effect when applied by numerous individuals. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater runoff and in receiving waters.

Bioengineering - see Soil bioengineering

Biofiltration system - A stormwater or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, biofiltration systems are designed to include grassy swales, retention ponds and other vegetative features.

Biota - The animals and plants that live in a particular location or region.

Boat launch or ramp - Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

Boat lift - A mechanical device that can hoist vessels out of the water for storage. These devices are usually located along a pier.

Boat rail or railway - A set of steel rails running from the upland area into the water upon which a cart or dolly can carry a boat to be launched.

Boathouse - A structure designed for storage of vessels located over water or upland. Boathouses should not be confused with "houseboats".

Boating Facility – A moorage structure serving more than four single-family residences.

Bog - A wet, spongy, poorly drained area which is usually rich in very specialized plants, contains a high percentage of organic remnants and residues and frequently is associated with a spring, seepage area, or other subsurface water source. A bog sometimes represents the final stage of the natural process of eutrophication by which lakes and other bodies of water are very slowly transformed into land areas.

Breakwater - An off-shore structure generally built parallel to the shore that may or may not be connected to land. Its primary purpose is to protect a harbor, moorage, or navigational activity from wave and wind action by creating a still-water area along the shore. A secondary purpose is to protect the shoreline from wave-caused erosion.

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

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act ("Superfund"); 1986 amendments are known as Superfund Amendments and Reauthorization Act or SARA.

CFR - Code of Federal Regulations.

CZMP - Coastal Zone Management Plan.

Certified engineer/biologist - see Professional engineer and Professional biologist.

Clean Water Act - The primary federal law providing water pollution prevention and control; previously known as the Federal Water Pollution Control Act. See 33 USC 1251 et seq.

City - The City of Covington.

Clearing - The destruction or removal of vegetation ground cover, shrubs and trees including, but not limited to, root material removal and/or topsoil removal.

Commercial - Uses and facilities that are involved in wholesale or retail trade or business activities.

Community structure - A building, dock, or other structure which is intended for the common use of the residents of a particular subdivision or community. It is not intended to serve as a public facility.

Comprehensive Plan - Comprehensive plan means the document, including maps adopted by the city council that outlines the City's goals and policies relating to management of growth, and prepared in accordance with RCW 36.70A. The term also includes adopted subarea plans prepared in accordance with RCW 36.70A.

Conditional Use - A use, development, or substantial development that is classified as a conditional use or is not classified within the applicable master program. Refer to WAC 173-27-030(4).

Conservation Easement - A legal agreement that the property owner enters into to restrict uses of the land. Such restrictions can include, but are not limited to, passive recreation uses such as trails or scientific uses and fences or other barriers to protect habitat. The easement is recorded on a property deed, runs with the land, and is legally binding on all present and future owners of the property, therefore, providing permanent or long-term protection.

Covered moorage - Boat moorage, with or without walls, that has a roof to protect the vessel.

Critical Areas Ordinance No. 14-05 §5, Covington - This ordinance provides the goals, policies, and implementing regulations for protecting the designated critical areas of Covington. The ordinance addresses critical area development controls; measures important for protecting and preserving these resources; preventing or mitigating cumulative adverse environmental impacts to critical areas; and serves to alert the public to the development limitations of critical areas.

Cumulative Impact - The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

DNS - Determination of Non-significance, under SEPA.

Degrade - To scale down in desirability or salability, to impair in respect to some physical property or to reduce in structure or function.

Development - A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use

of the surface of the waters of the state subject to Chapter 90.58 RCW at any state of water level (RCW 90.58.030(3d)).

Dock - Commonly referred to as a floating moorage structure, but can also be used in reference to fixed-pile piers (see exemptions). See "floating dock" and "float" for definition used in this Shoreline Master Program.

Downdrift - The direction of movement of beach materials.

Dredge spoil - The material removed by dredging. Same as Dredge Material.

Dredging - Excavation or displacement of the bottom or shoreline of a water body. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for shellfish harvesting or for cleanup of polluted sediments.

Dwelling unit – a single unit providing complete, independent living facilities for one or more persons, not to exceed one family, and which includes permanent provisions for living, sleeping, eating, cooking and sanitation.

EIS - Environmental Impact Statement.

Ecological Functions - The work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Ecosystem-wide Processes - The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

Ecology (WDOE) - The Washington State Department of Ecology.

Ell – Terminal section of a pier which typically extends perpendicular to the pier walkway. These sections can be either on fixed-piles or floating docks and are typically wider than the pier walkway.

Endangered Species Act (ESA) - A federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range.

Emergency - An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the master program. Emergency construction is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3eiii) and WAC 173-27-040(2d)).

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

Environmental Impacts - The effects or consequences of actions on the natural and built environments. Environmental impacts include effects upon the elements of the environment listed in the State Environmental Policy Act (SEPA). Refer to WAC 197-11-600 and WAC 197-11-444.

Environments, (Shoreline Environment) - Designations given specific shoreline areas based on the existing development pattern, the biophysical capabilities and limitations, and the goals and aspirations of local citizenry, as part of a Master Program.

Erosion - The wearing away of land by the action of natural forces.

Excavation - Excavation is the artificial movement of earth materials.

Excavated moorage slip - A boat mooring location that is man-made in that it requires dredging or excavation of excess sediment to afford access. Such slips may often involve dredging of the lake bottom waterward of the OHWM, or may include excavating a segment of the existing shoreline to enable moorage of a boat.

Exemption - Certain specific developments are exempt from the definition of substantial developments and are therefore exempt from the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local master program. Conditional use and/or variance permits may also still be required even though the activity does not need a substantial development permit (RCW 90.58.030(3e); WAC 173-27-030(7) and -040). For a complete list of exemptions, see Chapter 8.

Fair market value - The expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, drilling, dumping, or filling, the fair market value is the expected cost of hiring a contractor to perform the operation or where no such value can be calculated, the total of labor, equipment use, transportation and other costs incurred for the duration of the permitted project (WAC 173-27-030(8)).

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

Finger Pier – A narrow extension to a fixed-pile pier, usually extending perpendicular to the pier walkway along with an ell to form an enclosed area for boat moorage.

Float - A floating structure that is moored, anchored, or otherwise secured in the water offshore and that is generally located at the terminal end of a fixed-pile pier.

Floating Dock - A fixed structure floating upon a water body for the majority of its length and connected to shore.

Floating home - A structure designed and operated substantially as a permanently based over water residence. Floating homes are not vessels and lack adequate self-propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semi-permanent anchorage/moorage facilities.

Floodplain - Synonymous with 100-year floodplain. The land area susceptible to being inundated by stream derived waters with a 1 percent chance of being equaled or exceeded in any given year. The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (WAC 173-22-030(2)).

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

Forest Practices – areas not covered by the Forest Practices Act, especially Class IV – General forest practices involving conversion to non-forest use.

Grading - The physical manipulation of the earth's surface and/or drainage pattern in preparation for an intended use or activity.

Grassy swale - A vegetated drainage channel that is designed to remove various pollutants from storm water runoff through biofiltration.

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

HPA - Hydraulic Project Approval - The permit issued by the Washington State Departments of Fisheries or Wildlife pursuant to the State Hydraulic Code Chapter 75.20.100-140 RCW.

Habitat - The place or type of site where a plant or animal naturally or normally lives and grows.

Harbor - the area of navigable waters as determined in Section 1 of Article 15 of the Washington Constitution, which shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.

Hearing Examiner - The Hearing Examiner of the City of Covington.

Height - The distance measured from the average grade level to the highest point of a structure: provided, that television antennas, chimneys and similar appurtenances shall not be used in calculating height, except

where it obstructs the view of a substantial number of residences on areas adjoining such shorelines: provided further, that temporary construction equipment is excluded in this calculation (WAC 173-27-030(9)). See also Building Height.

Heliport - any landing area or other facility owned and operated, and which is designed, used or intended to be used by private aircraft for landing or taking off of aircraft, including all associated or necessary buildings and open spaces.

Houseboat - A vessel, principally used as an over water residence. Houseboats are licensed and designed for use as a mobile structure with detachable utilities or facilities, anchoring and the presence of adequate self-propulsion and steering equipment to operate as a vessel. Principal use as an overwater residence means occupancy in a single location, for a period exceeding two months in any one calendar year. This definition includes live-aboard vessels.

Hydric soils - Generally, soils which are, or have had a history of being, wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants (WAC 173-22-030(5)).

Hydrophytes - Those plants capable of growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (WAC 173-22-030(5)).

In-kind replacement - To replace wetlands, habitat, biota or other organisms with substitute flora or fauna whose characteristics closely match those destroyed, displaced or degraded by an activity.

In-stream structure – a structure placed by humans within a stream or river waterward 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.

Interested party - Synonymous with "party of record", and means all persons who have notified local government of their desire to receive a copy of the final order on a permit under WAC 173-27-030(12).

Lacustrine (also lacustrian) - Of, on, or pertaining to lakes. Lake - A body of standing water in a depression of land or expanded part of a river, including reservoirs, of twenty (20) acres or greater in total area. A lake is bounded by the ordinary high water mark or, where a stream enters a lake, the extension of the elevation of the lake's ordinary high water mark within the stream (RCW 90.58.030(1d); WAC 173-20-030; WAC 173-22-030(4)).

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

Landscaping - Vegetation ground cover including shrubs, trees, flower beds, grass, ivy and other similar plants and including tree bark and other materials which aid vegetative growth and maintenance.

Launching rail - See also Boat launch or ramp and Boat railway.

Launching ramp - See also Boat launch or ramp and Boat railway.

Liberal construction - A legal concept instructing parties interpreting a statute to give an expansive meaning to terms and provisions within the statute. The goal of liberal construction is to give full effect in implementing a statute's requirements. See RCW 90.58.900.

Littoral - Living on, or occurring on, the shore.

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

Marina - A facility that provides launching, storage, supplies, moorage, and other accessory services for six or more pleasure boats and/or commercial watercraft.

May - "May" means the action is acceptable, provided it conforms to the provisions of this chapter.

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

a) Avoiding the impact all together by not taking a certain action or parts of an action;

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

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

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

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

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

Moorage - Any device or structure (such as a pier or buoy) used to secure a vessel for temporary anchorage.

Moorage Piles - Structural members that are driven into the lake bed to serve as a stationary moorage point. They are typically used for moorage of small boats in the absence of, or instead of, a dock or pier. In some cases, moorage piles may be associated with a dock or pier.

Mooring buoy - A floating object anchored to the bottom of a water body that provides tie up capabilities for vessels.

Multifamily dwelling (or residence) - A building containing two or more dwelling units, including but not limited to duplexes, apartments and condominiums.

Must - "Must" means a mandate; the action is required.

NEPA - National Environmental Policy Act - NEPA requires federal agencies to consider environmental factors when making decisions, especially for development proposals of a significant scale. As part of the NEPA process, EISs are prepared and public comment is solicited.

Native plants - These are plants that occur naturally, and that distribute and reproduce without aid. Native plants in western Washington are those that existed prior to intensive settlement that began in the 1850s.

Natural riparian habitat corridor - The streamside environment designed and maintained primarily for fisheries and wildlife habitat, water quality improvements and secondarily for flood control works.

NFIP - National Flood Insurance Program.

NOAA - National Oceanic and Atmospheric Administration.

Nonconforming use or development - A shoreline use or structure which was lawfully constructed or established prior to the effective date of the applicable SMA/SMP provision, and which no longer conforms to the applicable shoreline provisions (WAC 173-27-080).

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

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

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 total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment (WAC 173-27-040(2b)). See also Normal maintenance.

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

Off-site replacement - To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by a regulated activity.

Oil separator - Specialized catch basins that are designed to trap oil and other materials lighter than water in the basin while allowing the water to escape through the drainage system. Commonly employed in parking lots and streets.

On-site replacement - To replace wetlands or other shoreline environmental resources at or adjacent to the site on which a resource has been impacted by a regulated activity.

Overwater structure - Any device or structure projecting above and waterward of the ordinary high water mark, including, but not limited to piers, docks, floats, and moorage.

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

Pier - a fixed, pile-supported structure.

Practicable alternative - An alternative that is available and capable of being carried out after taking into consideration short-term and long-term cost, options of project scale and phasing, existing technology and logistics in light of overall project purposes.

Priority Habitat - A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes:

- Comparatively high fish or wildlife density;
- Comparatively high fish or wildlife species diversity;
- Fish spawning habitat;
- Important wildlife habitat;
- Important fish or wildlife seasonal range;
- Important fish or wildlife movement corridor;
- Rearing and foraging habitat;
- Important marine mammal haul-out;
- Refugia habitat;
- Limited availability;
- High vulnerability to habitat alteration;
- Unique or dependent species; or
- Shellfish bed.

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus

slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

Priority Species - Species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

(a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the department of fish and wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

(b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

(c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

(d) Criterion 4. Species listed under the federal Endangered Species Act as proposed, threatened, or endangered.

Professional biologist - A specialist with education and training in the area of natural sciences concerned with the plants and animal life of a region.

Professional engineer - A person who, by reason of his or her special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, acquired by professional education and practical experience, is qualified to practice engineering and is licensed by the state of Washington or another state.

Properly Functioning Conditions (PFC) - Conditions that create and sustain natural habitat-affecting processes over the full range of environmental variation, and that support productivity at a viable population level of PTE species. PFC indicates a level of performance for a subset of the more broadly defined "ecological functions," reflecting what is necessary for the recovery of PTE species.

Proposed, Threatened, and Endangered (PTE) Species - Those native species that are proposed to be listed or are listed in rule by the Washington State Department of Fish and Wildlife as threatened or endangered, or that are proposed to be listed as threatened or endangered or that are listed as threatened or endangered under the federal Endangered Species Act.

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

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 (WAC 173-27-030(14)).

Public use - Public use means to be made available daily to the general public on a first-come, first-served basis, and may not be leased to private parties on any more than a day use basis. Refer to WAC 332-30-106.

RCW - Revised Code of Washington.

RCW 90.58 - The Shoreline Management Act of 1971.

Recreational facilities - Facilities such as parks, trails, and pathways that provide a means for relaxation, play, or amusement. For the purposes of this Master Program, recreational facilities are divided into two categories:

1. Water-dependent (i.e. – boating facilities, fishing piers, swim rafts) and

2. Non-water-dependent (i.e. – sports fields, golf courses, and RV camping)

Recreational Float - A floating structure that is moored, anchored, or otherwise secured in the water off-shore and that is generally used for recreational purposes such as swimming and diving.

Residential development - Development which is primarily devoted to or designed for use as a dwelling(s). Residential development includes single family development, multi-family development, and the creation of new residential lots through land division.

Restoration - To revitalize or reestablish characteristics and processes of a wetland or habitat diminished or lost by past alterations, activities, or catastrophic events.

Retrieval Lines - A system by which a float or other floating object is retrieved to a pier, dock, or shoreland.

Riparian - Of, on, or pertaining to the banks of a river, stream or lake.

Riprap - A layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment; also, the stone so used.

Rotovating - An aquatic vegetation harvesting technique that uses rototilling technology to uproot and remove plants.

Runoff - Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

SEPA - see State Environmental Policy Act

SEPA Checklist - A checklist is required of some projects under SEPA to identify the probable significant adverse impacts on the quality of the environment. The checklist will also help to reduce or avoid impacts

from a proposal, and help the responsible governmental agency decide whether a full environmental impact statement (EIS) is required (WAC 197-11-960).

SMA - see Shoreline Management Act

SMP - see Shoreline Master Program

Salmon and Steelhead Habitats - Gravel bottomed streams, creeks, and rivers used for spawning; streams, creeks, rivers, side channels, ponds, lakes, and wetlands used for rearing, feeding, and cover and refuge from predators and high water; streams, creeks, rivers, used as migration corridors.

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

Setback - The minimum required distance between a structure and a specified line, such as a lot, easement or buffer line or the ordinary high water mark, that is required to remain free of structures

Shall - "Shall" means a mandate; the action must be done.

Shorelands or Shoreland Areas – Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetland and river deltas associated with the streams and lakes which are subject to the provision of the Shoreline Management Act. Shorelands in the City of Covington include areas within 200 feet of the ordinary high water mark of shoreline jurisdiction waters and associated wetlands within shoreline jurisdiction. Optional buffers for critical areas are not included in shoreline jurisdiction. Only portions of the floodplain are included in shoreline jurisdiction, including the mapped floodway of Big Soos Creek and contiguous floodplain areas landward 200 feet are also encompassed within the shoreland area. Some additional flood plain areas are included in the Jenkins Creek SMA beyond the statuatory minimum because they are located in wetland areas, which are included under mandatory provisions. Waters identified within jurisdiction include portions of Big Soos Creek, portions of Jenkins Creek, and the portion of Pipe Lake located within the City limits.

Shoreline Administrator - The City of Covington Community Development Director or his/her designee, charged with the responsibility of administering the shoreline master program.

Shoreline environment designations - The categories of shorelines established by local shoreline master programs in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas.

Shoreline Jurisdiction - The term describing all of the geographic areas covered by the SMA, related rules and the applicable master program, and such areas within a specified local government's authority under the SMA. Shorelands in the City of Covington include areas within 200 feet of the ordinary high water mark (OHWM) of shoreline jurisdiction waters, floodways, associated floodplain areas landward 200 feet from such floodways and associated wetlands. Waters identified within jurisdiction include portions of Big Soos Creek, portions of Jenkins Creek, and the portion of Pipe Lake located within the City limits. The mapped floodway of Big Soos Creek, contiguous floodplain areas landward 200 feet from such floodways, and associated

wetlands are specifically encompassed within the shoreland area. Jenkins Creek does not have a mapped floodway, but floodplain areas within 200 feet of the OHWM and associated wetlands are included in shoreline jurisdiction. Within both Jenkins Creek and Big Soos Creek, additional floodplain areas beyond the statuatory minimum are included because they are located in wetland areas. However, the entire floodplain is not included and wetland buffers are not included. See definitions of Shorelands, Shorelines, Shorelines of the state, Shorelines of statewide significance, and Wetlands, jurisdictional.

Shoreline Management Act of 1971 - Chapter 90.58 RCW, as amended. Shoreline Master Program (SMP) - The comprehensive use plan and related use regulations which are used by local governments to administer and enforce the permit system for shoreline management. Master programs must be developed in accordance with the policies of the SMA, be approved and adopted by the state, and be consistent with the rules (WACs) adopted by Ecology.

Shoreline Permit - A substantial development, conditional use, revision, or variance permit or any combination thereof (WAC 173-27-030(13)).

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

Shorelines - All of the water areas of the state, including reservoirs and their associated shorelands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)(d).

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

Shorelines of statewide significance - A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special preservationist policies apply and where greater planning authority is granted by the SMA. Permit review must acknowledge the use priorities for these areas established by the SMA. See RCW 90.58.020.

Shorelines of the State - Shorelines and shorelines of statewide significance.

Should - "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this Master Program, against taking the action.

Sign - A board or other display containing words and/or symbols used to identify or advertise a place of business or to convey information. Excluded from this definition are signs required by law and the flags of national and state governments.

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

Solid waste - Solid waste means all garbage, rubbish trash, refuse, debris, scrap, waste materials and discarded materials of all types whatsoever, whether the sources be residential or commercial, exclusive of hazardous wastes, and including any and all source-separated recyclable materials and yard waste.

Soil bioengineering - An applied science that combines structure, biological and ecological concepts to construct living structures that stabilizes the soil to control erosion, sedimentation and flooding using live plant materials as a main structural component.

State Environmental Policy Act - SEPA requires state agencies, local governments and other lead agencies to consider environmental factors when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, EISs may be required to be prepared and public comments solicited.

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

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

Substantial Development - Any development of which the total cost or fair market value exceeds five thousand seven hundred eighteen dollars ($5,718), or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. A list of activities and developments that shall not be considered substantial development is provided in Chapter 8.

Terrestrial - Of or relating to land as distinct from air or water.

Upland - Generally described as the dry land area above and landward of the ordinary high water mark.

Utilities - Services and facilities that produce, transmit, store, process or dispose of electric power, gas, water, stormwater, sewage and communications.

Utilities, Accessory - Utilities comprised of small-scale distribution and collection facilities connected directly to development within the shoreline area. Examples include local power, telephone, cable, gas, water, sewer and stormwater service lines.

Utilities, Primary – Utilities comprised of trunk lines or mains that serve neighborhoods, areas and cities. Examples include solid waste handling and disposal sites, water transmission lines, water storage facilities, sewage treatment facilities and mains, power generating or transmission facilities, gas storage and transmission facilities and stormwater mains and regional facilities.

Variance - A means to grant relief from the specific bulk, dimensional or performance standards specified in the applicable master program. Variance permits must be specifically approved, approved with conditions, or denied by Ecology (See WAC 173-27-170).

WAC - Washington Administrative Code.

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

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

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

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

1. Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water or,
2. The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent activities and

storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

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

Watershed restoration plan - A plan developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, and/or the Department of Transportation acting within or pursuant to its authority, a city, a county or a conservation district that provides a general program and implementation measures or actions for the preservation , restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to 43.21C RCW, the State Environmental Policy Act.

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

Wetlands - "Wetlands" or "wetland areas" means areas that are inundated or saturated by surface 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 non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non wetland areas to mitigate the conversion of wetlands

Zoning - To designate by ordinance, including maps, areas of land reserved and regulated for specific land uses.

Chapter 3 Goals of the Shoreline Management Program

Introduction

This section contains goals and policies that form the foundation of the City of Covington's Shoreline Master Program. They apply to all areas and all designated shoreline environments within the shoreline jurisdiction of the City of Covington. The Shoreline Management Act requires cities to adopt goals, or 'elements" to guide and support major shoreline management issues. The elements required by RCW 90.58.100(2), when appropriate are:

- Economic Development Element,
- Public Access Element,
- Recreational Element,
- Circulation Element,
- Shoreline Use Element,
- Conservation Element,
- Historic, Cultural, Scientific and Educational Element, and
- An element that gives consideration to the statewide interest in the prevention and minimization of flood damages.

Economic Development Element

The Shoreline Master Program for the City of Covington contains limited provisions for economic development along the shoreline. Big Soos Creek and Jenkins Creek are not navigable waterways. Residential and recreation uses are the only primary land uses designated in the adopted Covington Comprehensive Plan around Pipe Lake. Limited commercial uses are allowed along portions of Jenkins Creek outside of critical areas and associated buffers. Industrial uses are limited to the BPA facility along a portion of Jenkins Creek.

Goal 1: Ensure that any economic activity taking place along the shoreline does not harm the quality of the site's environment or adjacent shorelands, and that new non-residential development provides public access to the shoreline for water-enjoyment activities.

Policy 1.1: Proposed economic use of the shoreline should be consistent with Covington's Comprehensive Plan. Conversely, upland uses on adjacent lands outside of immediate SMA jurisdiction (in accordance with RCW 90.58.340) should be consistent with the purpose and intent of this master program as they affect the shoreline.

Public Access Element

Goal 2: Increase the amount and diversity of public access to the shoreline, and preserve and enhance views of the shoreline, consistent with the natural shoreline character, private rights and public safety.

Policy 2.1: Identify and prioritize both long term and short term public access sites.

Policy 2.2: Integrate public access to shorelines as a part of the City's public trail system.

Policy 2.3: Provide and enhance shoreline access to Jenkins Creek and Big Soos Creek through fee simple acquisition, easements, signage of public access points, and designation and design of specific shoreline access areas for wildlife viewing.

Policy 2.4: Coordinate with the owners of Camp McCullough to explore potential public access opportunities to Pipe Lake in the event of future development and conversion to a non-recreational use.

Policy 2.5: Ensure new public access does not adversely affect the integrity and character of the shoreline, or threaten fragile shoreline ecosystems by locating new access points on the least sensitive portion of the site and providing mitigation so there is no net loss of shoreline function.

Policy 2.6: Ensure the development of upland areas such as parking facilities and play areas, as well as the development of in-water and nearshore structures, such as docks and swimming areas, are located and designed in accordance with mitigation sequencing and result in no net loss of ecological function.

Policy 2.7: Access should be provided for a range of users including pedestrians, bicyclists, boaters and people with disabilities to the greatest extent feasible.

Policy 2.8: Development, uses and activities on or near the shoreline should not impair or detract from the public's visual or physical access to the water.

Recreational Element

Goal 3: Encourage diverse, water-oriented recreational opportunities in those shoreline areas that can reasonably tolerate such uses without destroying the integrity and character of the shoreline.

Policy 3.1: The City should pursue additional public access to the shoreline for recreational uses.

Policy 3.2: Coordinate with Camp McCullough to allow opportunities for public water-oriented recreation on Pipe Lake in the event of future development and conversion to a non-recreational use.

Policy 3.3: Encourage federal, state, and county government to acquire additional shoreline properties for public recreational uses.

Policy 3.4: Ensure existing and proposed recreational uses are of a safe and healthy nature and do not adversely affect the integrity and character of the shoreline, or threaten fragile shoreline ecosystems.

Policy 3.5: Consider both active and passive recreational needs in development of public shoreline access areas.

Circulation Element

Goal 4: Maintain safe, reasonable and adequate vehicular, bicycle, and pedestrian circulation systems to shorelines and ensure that these routes will have the least possible adverse effect on unique or fragile shoreline features and existing ecological systems, while contributing to the functional and visual enhancement of the shoreline.

Policy 4.1: Locate land circulation systems as far from the land-water interface as feasible to reduce interference with either natural shoreline resources or other appropriate shoreline uses, except when necessary to provide for appropriate public access to the shoreline. Where possible avoid creating barriers between adjacent uplands and the shoreline.

Policy 4.2: Encourage the use of bicycles, walking and transit for general access to the shoreline and improve and expand associated facilities and connections to the shoreline.

Policy 4.3: When new transportation development occurs in shoreline areas, acquire and develop physical and visual public access to the shoreline where topography, view and natural features warrant.

Policy 4.4: New stream crossings associated with transportation should be minimized. Where necessary culverts or bridges should be designed to provide for stream functions such as fish passage and accommodate the flow of water, sediment and woody debris during storm events.

Conservation Element

Goal 5: Preserve, protect, and restore to the greatest extent feasible the natural resources of the shoreline, including but not limited to scenic vistas, aesthetics, and vital riparian areas for wildlife protection.

Policy 5.1: Protect shoreline process and ecological functions through regulatory and non-regulatory means that may include acquisition of key properties, conservation easements, regulation of development within the shoreline jurisdiction, and incentives to encourage ecologically sound design.

Policy 5.2: Reclaim and restore areas which are biologically and aesthetically degraded to the greatest extent feasible while maintaining appropriate use of the shoreline.

Policy 5.3: Preserve the scenic aesthetic quality of shoreline areas and vistas to the greatest extent feasible.

Policy 5.4: Preserve and restore native vegetation along the shoreline.

Shoreline Use Element

Goal 6: Ensure that the land use patterns within shoreline areas are compatible with shoreline environment designations and will be sensitive to and not degrade habitat and ecological systems and other shoreline resources.

Policy 6.1: New residential development should be designed to protect existing shoreline water views, promote public safety, and avoid adverse impacts to shoreline habitats.

Policy 6.2: All development and redevelopment activities within the City's shoreline jurisdiction should be designed to ensure public safety, enhance public access, protect existing shoreline and water views and achieve no net loss of shoreline ecological functions.

Policy 6.3: Low Impact Development (LID) and "Green Building" practices, such as those promulgated under the Leadership in Energy and Environmental Design (LEED) and Green Built programs should be encouraged and in some cases required for new development within the shoreline jurisdiction.

Policy 6.4: Proposed shoreline uses should not infringe upon the rights of others or upon the rights of private ownership.

Policy 6.5: Water oriented uses shall be given preference over non-water oriented uses.

Policy 6.6: Encourage shoreline uses which enhance their specific areas or employ innovative features for purposes consistent with this program.

Policy 6.7: Encourage restoration of shoreline areas that have been degraded or diminished in ecological value and function as a result of past activities or catastrophic events.

Historic, Cultural, Scientific and Educational Element

Goal 7: Identify, protect, preserve and restore important archaeological, historical and cultural sites located in shoreline jurisdiction of Covington for their educational and scientific value, as well as for the recreational enjoyment of the general public.

Policy 7.1: Prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value.

Policy 7.2: Encourage educational projects and programs that foster a greater appreciation of the importance of shoreline management, maritime activities, environmental conservation and maritime history.

Policy 7.3: Allow scientific equipment in shoreline areas for monitoring aquatic resources, water quality and other natural features as needed.

Policy 7.4: Ensure that new development is compatible with existing historic structures and cultural areas.

Flood Hazard Management Element

Goal 8: Protect the City of Covington from losses and damage created by flooding.

Policy 8.1: Seek regional solutions to flooding problems through coordinated planning with county, state and federal agencies, other appropriate interests and the public.

Policy 8.2: Work with federal, state and regional entities and affected Indian Tribes to provide additional analysis and mapping/refinement of flood hazard areas.

Policy 8.3: Ensure that flood hazard protection projects have a positive environmental benefit that emphasizes long-term solutions over short-term solutions.

Chapter 4 General Shoreline Policies and Regulations

Introduction

Based on the goals established for the Shoreline Master Program, the following general policies and regulations apply to all uses, developments, and activities in the shoreline area of the City of Covington. General policies and regulations are broken into different topic headings and arranged alphabetically. Each topic begins with a description of its applicability, followed by general policy statements and regulations. The intent of these provisions is to be inclusive, making them applicable to all environments, as well as particular shoreline uses and activities. Topics include the following:

- All Development and Uses
- Archaeological and Historic Resources
- Critical Areas
- Environmental Impacts
- Public Access
- Shoreline Vegetation Conservation
- Water Quality, Stormwater, and Non-Point Pollution

The regulations of this chapter are in addition to other adopted ordinances and rules. Where conflicts exist between regulations, those that provide more substantive protection to the shoreline area shall apply. These interlocking development regulations are intended to make shoreline development responsive to specific design needs and opportunities along the City's shorelines, protect the public's interest in the shorelines' recreational and aesthetic values and assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources.

These provisions address the elements discussed in Chapter 3 of this SMP as required by RCW 90.58.100(2) and implement the governing principles of the Shoreline Master Program Guidelines as established in WAC 173-26-186.

All Uses and Development

Applicability

The following provisions apply to all development and uses regardless of whether a shoreline substantial development permit is required.

Policies Applicable to All Uses and Development

Policy 1: The application of master program policies and regulations to all uses and related modifications shall assure no net loss of ecological functions necessary to sustain shoreline natural resources within the Covington SMA.

Regulations

Regulation 1: No use, activity or modification shall result in a net loss of shoreline ecological function. Impacts to ecological functions in the SMA shall be avoided, minimized, and mitigated to achieve this standard.

Regulation 2: No permit shall be approved and no activity shall be authorized by the Shoreline Administrator without a clear finding that the use, activity, or modification, and any required mitigation, complies with the no net loss standard.

Regulation 3: The applicant and/or party responsible for the use, activity or modification shall provide all necessary information needed to demonstrate compliance with the no net loss standard.

Regulation 4: The City should periodically review shoreline conditions to determine whether or not other actions are necessary to ensure no net loss of ecological functions, protect and enhance visual quality, and enhance residential and recreational uses on the City's shoreline. Specific issues to address in such evaluations include, but are not limited to:

a. Water quality,

b. Conservation of aquatic vegetation (control of noxious weeds and enhancement of vegetation that supports more desirable ecological and recreational conditions),

c. Changing visual character as result of new residential development, including additions, and individual vegetation conservation practices (both along shoreline and in upland areas),

d. Shoreline stabilization and modifications.

Archaeological and Historic Resources

Applicability

The following provisions apply to archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with Chapter 25-48 WAC as well as the provisions of this chapter.

Archaeological and Historic Resource Policies

Policy 1: Due to the limited and irreplaceable nature of archaeological and historic resources, prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the office of archaeology and historic preservation.

Archaeological and Historic Resource Regulations

Regulation 1: Local developers and property owners shall immediately stop work and notify the City, the Department of Archaeology and Historic Preservation and affected Indian tribes if archaeological resources are uncovered during excavation.

Regulation 2: A site inspection or evaluation by a professional archaeologist in coordination with affected Native American tribes shall be required for all permits issued in areas documented to contain archaeological resources. Failure to comply with this requirement shall be considered a violation of the Shoreline Permit.

Regulation 3: Significant archaeological and historic resources shall be permanently preserved for scientific study, education and public observation. When the City determines that a site has significant archeological, natural scientific or historical value, a Shoreline Substantial Development Permit and/or any other permit authorizing development or land modification shall not be issued which would pose a threat to the site. The City may require that a site be redesigned or that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts.

Regulation 4: In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify the State Department of Ecology, the State Attorney General's Office and the State Historic Preservation Office of such a waiver in a timely manner.

Regulation 5: Archaeological sites located both in and outside the shoreline jurisdiction are subject to RCW 2744 (Indian Graves and Records) and RCW 2753 (Archaeological Sites and Records) and shall comply with WAC 25-48 or its successor as well as the provisions of this master program.

Regulation 6: Identified or suspected historical or archaeological resources shall be considered in park, open space, public access, and site planning with access to such areas designed and managed to give maximum protection to the resource and surrounding environment.

Regulation 7: Clear interpretation of historical and archaeological features and natural areas shall be provided when appropriate.

Critical Areas

Applicability

The following policies and regulations must be used when making decisions affecting critical areas within Covington's shoreline jurisdiction. Detailed regulations for critical areas within shoreline jurisdiction are contained in Appendix A. In addition, specific policies and regulations are provided in Chapter 7, Shoreline Modification Policies and Regulations. Although critical area regulations within the SMP are very similar to those codified in CMC Chapter 18.65, pursuant to the requirements of the Shoreline Management Act, these

regulations are distinct. For example, provisions of Covington Critical Area Regulations that include "exceptions" shall not apply within Shoreline Jurisdiction. Specifically, CMC Section 18.65.070 has not been included in the regulations contained in Appendix A. In addition, the SMP provides an optional aquatic area buffer modification in the Shoreline Residential environment along Pipe Lake as detailed in Chapter 6.

In addition:

1. If provisions of Appendix A and other parts of the master program conflict, the provisions most protective of the ecological resource shall apply, as determined by the City.
2. If there are any provisions of Appendix A that are not consistent with the Shoreline Management Act Chapter, 90.85 RCW, and supporting Washington Administrative Code chapters, they shall not apply.
3. The provisions of Appendix A do not extend Shoreline Jurisdiction beyond the limits specified in this SMP (see definition of "shoreline jurisdiction"). For regulations addressing critical area buffer areas that are outside shoreline jurisdiction, see Covington Critical Areas Regulations in SMC Chapter 18.65.

Critical areas constitute the most environmentally fragile lands which support resources that are economically and culturally important to the state under the Shoreline Management Act. For example, they can be natural resources that provide fisheries habitat or areas that may threaten the health and safety of the public, such as floodways or unstable slopes. Critical areas include critical aquifer recharge areas, erosion hazard areas, flood hazard areas, landslide hazard areas, severe channel migration areas, steep-slope hazard areas, wetlands, aquatic areas, wildlife habitat conservation areas, wildlife network areas and related buffers, as set forth in the City's Critical Areas Regulations for the Shoreline Management Area (Appendix A).

Critical Area Policies

Policy 1: Critical areas within the shoreline jurisdiction are regulated by the City of Covington Critical Areas Regulations for the Shoreline Management Area, as contained in Appendix A.

Although these regulations are similar to the Critical Areas Regulations codified in Chapter 18.65 of the Covington Municipal Code, pursuant to the requirements of the Shoreline Management Act, these regulations are distinct. Please note that certain key sensitive area provisions, including the Reasonable Use Exception, do not apply in the shoreline jurisdiction. If there are conflicts between the regulations contained in the SMP, those that are the most protective of shoreline ecological functions will apply.

Policy 2: In addressing issues related to critical areas, use scientific and technical information, as described in WAC 173-26-201 (2)(a).

Policy 3: In protecting and restoring critical areas within the shoreline jurisdiction, integrate the full spectrum of planning and regulatory measures, including the comprehensive plan, interlocal watershed plans, local development regulations, and state, tribal, and federal programs.

Policy 4: Protect existing ecological functions and ecosystem-wide processes and restore degraded ecological functions and ecosystem-wide processes.

Policy 5: Promote human uses and values that are compatible with public access and aesthetic values, provided they do not significantly adversely impact ecological functions.

Critical Area Regulations

Regulation 1: All shoreline uses and activities shall be located, designed, constructed and managed to protect and/or not adversely affect those natural features which are valuable, fragile or unique in the region, and to facilitate the appropriate intensity of human use of such features, including but not limited to:

i. Wetlands;

ii. Aquatic areas, including streams and lakes;

iii. Fish and wildlife habitats and spawning areas;

iv. Critical aquifer recharge areas;

v. Floodways; and

vi. Geologically hazardous areas, including erosion, landslide, steep slope and seismic hazard areas.

Regulation 2: Impacts to critical areas shall be avoided, minimized, and mitigated to achieve no net loss of ecological functions necessary to sustain shoreline resources. Critical area protections shall be implemented to protect hydrologic connections between aquatic areas and associated wetlands.

Regulation 3: All uses, developments, and activities on sites within the shoreline jurisdiction must comply with all applicable federal, state and local management codes and regulations, including those administered or required by the Army Corps of Engineers, the Federal Emergency Management Agency, the U.S. Department of Agriculture, the State Department of Fisheries and Wildlife, the State Department of Ecology, the State Department of Agriculture, the State Environmental Policy Act, the City's Shoreline Master Program, the City's zoning regulations, and other applicable local land use codes and regulations.

Regulation 4: The standards of the Covington Critical Areas Regulations for the Shoreline Management Area shall apply within waters of the state and areas landward of the ordinary high water mark within the shoreline jurisdiction, where critical areas are present. The City chooses not to include land necessary for buffers in its master program for critical areas that occur within shorelines of the state as allowed by RCW 90.58.030(2)(f)(ii). Buffers outside of shoreline jurisdiction shall be governed by the City's critical area ordinance. If there are any conflicts or unclear distinctions between the Master Program and the Covington Critical Areas Regulations, those most consistent with the provisions found in RCW 90.58.020 as determined by the shoreline administrator shall apply.

Regulation 5: The use of herbicides and pesticides to remove noxious plants in rivers, streams, and wetland areas shall be PROHIBITED, except where no reasonable alternatives exist and it is

demonstrated that such activity is in the public interest. A conditional use permit shall be required in such cases, as well as compliance with all state permits and requirements. Mechanical removal of noxious weeds shall be timed and carried out in a manner to minimize any disruption of wildlife or habitat.

Please see Appendix A for additional requirements within Critical Areas in the Shoreline Management Area.

Environmental Impacts

Applicability

The Shoreline Management Act (Act) is concerned with the environmental impacts that both a use and an activity may have on the fragile shorelines of the state. Problems of degrading the shoreline and its waters with contaminants such as petroleum products, chemicals, metals, nutrients, solid or human waste, or soil sediments from erosion are all issues that are addressed.

Environmental Impact Policies

Policy 1: Adverse impacts on the natural environment should be minimized during all phases of development (e.g., design, construction, operation, and management).

Policy 2: Shoreline developments that protect and/or contribute to the long-term restoration of PFC for PTE species are consistent with the fundamental goals of this Master Program. Shoreline developments that propose to enhance critical areas, other natural characteristics, and resources of the shoreline should be encouraged.

Environmental Impact Regulations

Regulation 1: Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any bodies of water or to be discharged onto the land.

Regulation 2: The direct release of oil and hazardous materials or chemicals onto the land or into water is prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leakproof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

Regulation 3: All shoreline uses and activities shall utilize best management practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Physical control measures include, but are not limited to, catch basins, settling ponds, oil/water separators, filtration systems, grassy swales, interceptor drains and landscaped buffers. All types of BMPs require regular maintenance to continue to function as intended.

Regulation 4: All shoreline developments and uses shall utilize effective erosion control methods during both construction and operation.

Regulation 5: Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority; lower priority measures shall be applied only where higher priority measures are determiend to be infeasible or inapplicable:

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

Regulation 6: All shoreline uses and activity shall be located, designed, constructed and managed in a manner that avoids, if feasible, and then minimizes adverse impacts to surrounding land and water uses and that is aesthetically compatible with the affected area.

Regulation 7: All shoreline developments shall be located, constructed and operated so as not to be a hazard to public health and safety.

Regulation 8: Land clearing, grading, filling and alteration of natural drainage features and land forms shall be limited to the minimum necessary for development. Surface drainage systems or substantial earth modifications involving greater than 500 cubic yards of material shall be designed by a professional engineer. These designs shall seek to prevent maintenance problems, avoid adverse impacts to adjacent properties or shoreline features, and result in no net loss of shoreline ecological functions.

Regulation 9: All shoreline uses and activities shall be located and designed to prevent or minimize the need for shoreline protection structures (bulkheading, riprap, etc.) and stabilization, landfills, groins, jetties, or substantial site regrades.

Regulation 10: Identified significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation shall be sufficient reason for permit denial.

Public Access

Applicability

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. There are a variety of types of potential public access, including picnic areas, pathways and trails, promenades, bridges, street ends, ingress and egress, parking and others.

Existing public access to shorelines within the shoreline jurisdiction is limited to one open space parcel within the Big Soos Creek shoreline jurisdictional area. Farther upstream, outside of shoreline jurisdiction, Big Soos Creek and Jenkins Creek have major public parks and/or trails that provide physical access to the water for passive enjoyment of the shoreline. Pipe Lake has Camp McCullough and a private park for homeowners in Aqua Vista Estates, both of which provide private access to the lake for boating and swimming. However, public access to Pipe Lake does not exist currently.

Plans for future public shoreline access exist along all three water features in the form of potential and proposed parks, trails, and open space.

Public Access Policies

Policy 1: Public access provisions should be required for all shoreline development and uses, except for water dependent uses and individual single family residences not part of a development planned for more than four parcels.

Policy 2: Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

Policy 3: Development uses and activities on or near the shoreline should not impair or detract from the public's visual or physical access to the water.

Policy 4: Preservation and enhancement of the public's visual access to Covington's shoreline areas should be encouraged. Enhancement of views should not be construed to mean excess removal of vegetation that partially impairs views.

Policy 5: Public access to Covington's shorelines does not include the right to enter upon or cross private property, except for dedicated easements.

Policy 6: Specifically identify potential sites for the development of shoreline public access and prioritize sites in terms of short and long term acquisition and development.

Policy 7: Shoreline areas that hold unique value for public enjoyment should be purchased for public use.

Policy 8: Camp McCullough represents a particularly important public access opportunity given its location on Pipe Lake, the current use as a private recreation facility, and the high ecological functions of the site. Ensure continued recreational use of the property and consider possible future public access through an agreement, easement, or acquisition in the event of future development and conversion to a non-recreational use.

Policy 9: Integrate shoreline public access trails with other existing and planned regional trails to provide non-motorized access and community connections.

Policy 10: Physical access for swimming and non-motorized boating, passive recreation (such as interpretive trails) and habitat enhancement should be important objectives for the management of shoreline public access sites.

Policy 11: Where appropriate, public access should be provided as close as possible to the water's edge without adversely affecting a sensitive shoreline environment.

Policy 12: Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and should be designed for accessibility by handicapped and physically impaired persons.

Policy 13: Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.

Policy 14: Public access to the shoreline should be sensitive to the unique characteristics of the shoreline and should preserve the natural character and quality of the environment and adjacent wetlands.

Policy 15: Regulations shall ensure that the development and operation of recreational facilities results in no net loss of ecological function. Regulations should address upland concerns, such as the location and design of parking facilities, active play areas and trails, as well as the development on in-water and nearshore structures, such as non-motorized boat launches, piers and swimming areas.

Policy 16: The level of public access should be commensurate with the degree of uniqueness or fragility of the shoreline.

Policy 17: Public access facilities should be constructed of environmentally friendly materials, use low impact development techniques and support healthy natural processes, when feasible.

Policy 18: Parks and trail plans should provide detailed guidance for the construction of trails in particularly environmentally sensitive shoreline segments along Jenkins and Big Soos Creek.

Public Access Regulations

Regulation 1: Public access shall be required for all shoreline development and uses, except for water dependent uses and single family residences not part of a development planned for more than four parcels.

Regulation 2: Subdivisions of land into more than four parcels shall include dedication and improvement of public access.

Regulation 3: A. A shoreline development or use that does not provide public access may be authorized provided it is demonstrated by the applicant and determined by the City that one or more of the following provisions apply.

i. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;

ii. Inherent security requirements of the proposed development or use cannot be satisfied through the application of alternative design features or other solutions;

iii. The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;

iv. Unacceptable environmental harm such as damage to fish spawning areas will result from the public access which cannot be mitigated; or

v. Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated.

B. Provided further, that the applicant has first demonstrated and the City has determined that all reasonable alternatives have been exhausted, including but not limited to:

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

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

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

C. Where the above conditions cannot be met, a payment in lieu of providing public access shall be required in accordance with RCW 82.02.020 (relating to fees associated with development).

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

Regulation 5: Public access sites shall be connected directly to the nearest public street if possible.

Regulation 6: Public access sites shall be made barrier free for the physically disabled where feasible.

Regulation 7: Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.

Regulation 8: Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat or short plat as a condition running in perpetuity with the land. Recording with the Auditor's office shall occur at the time of permit approval (RCW 58.17.110; relating to subdivision approval or disapproval).

Regulation 9: The standard state approved logo and other approved signs that indicate the public's right of access and hour of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. In accordance with Public Access Regulation #1 in this section, signs controlling or restricting public access may be approved as a condition of permit approval.

Regulation 10: Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.

Regulation 11: Development on or over the water shall be constructed as far landward as possible to avoid interference with views from surrounding properties to the shoreline and adjoining waters.

Regulation 12: Physical public access shall be designed to prevent significant impacts to sensitive natural systems. Where impacts to shoreline ecological functions cannot be avoided, mitigation shall be required to meet the no net loss standard.

Regulation 13: The City shall require the use of environmentally friendly materials and technologies in such things as building materials, porous pavement, site preparation, drainage, landscaping, etc., when public access to the shoreline is required.

Regulation 14: Where public access is to be provided by a trail the following requirements shall apply:

a. The trail shall be no greater than 12 feet in total improved width, not including landscaping; no more than 8 feet of paved surface is preferable in most cases.

b. Where feasible, the trail shall be placed on the furthest landward edge of the riparian management zone.

c. Landscaping should be native and drought tolerant or site appropriate.

d. Other specific conditions described in a trail plan.

Regulation 15: Public entities, including the City of Covington, are required to incorporate public access measures as part of each public shoreline development project, unless access is incompatible with safety, security, or environmental protection.

Vegetation Conservation (Clearing and Grading)

Vegetation within and adjacent to water bodies provides a valuable function for the health of aquatic ecosystems. Vegetation management involves both a passive and active management system. The intent of both systems is to minimize habitat loss and the impact of invasive plants, erosion, sedimentation, and flooding. "Passive" vegetation management deals with protection and enhancement of existing diverse native plant communities along all shorelines including creeks, streams, wetlands, and lakes. "Active" vegetation management involves aquatic weed control as well as the restoration of altered or threatened shorelines using a technology called soil bioengineering. Soil bioengineering reestablishes native plant communities as a dynamic system that stabilizes the land from the effects of erosion.

Applicability

The following provisions apply to any activity, development, or use which results in the removal of or impact to shoreline vegetation, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. These provisions also apply to vegetation protection and enhancement activities. Unless otherwise stated, vegetation conservation does not include those activities covered under the Washington State Forest Practices Act, except for conversion to other uses and those other forest practice activities over which local governments have authority. Like other master program provisions, vegetation conservation standards do not apply retroactively to existing uses and structures, such as existing agricultural practices.

Clearing and grading is an activity associated with developing property for a particular use including commercial, industrial, recreational, and residential. Specifically, "clearing" means the destruction or removal of vegetative ground cover and/or trees including, but not limited to, root material removal and/or topsoil removal. "Grading" means any excavating, filling, removing the duff layer, or combination thereof. Grading can also involve either the export of materials off-site, or the import of materials from an off-site source. Both of these activities may cause erosion, siltation, increased runoff and flood volumes, reduced flood storage capacity, and habitat damage.

Vegetation Conservation Policies

Policy 1: Conserve and enhance vegetation along shorelines to protect and restore the ecological functions and ecosystem-wide processes performed by upland and aquatic vegetation. Native plant communities within the shoreline environment should be protected and maintained. All clearing and grading activities should be designed and conducted to avoid and minimize impacts to wildlife habitat; sedimentation of creeks, streams, ponds, lakes, wetlands and other water bodies; soil hydrology and water quality.

Policy 2: Shoreline vegetation should be conserved because it enhances the stability of stream banks and the Pipe Lake shoreline, reduces hazards associated with slope failures and accelerated erosion, reduces the need for structural shoreline stabilization measures, improves the visual and aesthetic qualities of the shoreline and provides plant and animal species habitat.

Policy 3: For proposed land clearing, landfill, or grading activities that require a grading permit under Covington's Municipal Code, a clearing and grading plan addressing species removal, replanting, irrigation, erosion and sedimentation control and other methods of riparian corridor protection shall be required.

Policy 4: Clearing and grading activities in shoreline areas should be limited to the minimum necessary to accommodate shoreline development. Such activities should be discouraged in designated (structural) setback areas and allowed in other shoreline locations only when associated with a permitted shoreline development. All clearing and grading activities should be designed with the objective of maintaining natural diversity in vegetation species, age, and cover density.

Policy 5: The removal of non-hazardous mature trees should generally be prohibited within critical areas in the shoreline management area. Outside of critical areas and buffers, removal should be allowed, but mitigation sequencing consistent with Chapter 4, Environmental Impacts, Regulation 5 should be required.

Policy 6: Adverse environmental and shoreline impacts of clearing and grading should be avoided wherever possible through proper site planning, limiting such activity to minimum necessary for the construction of access and improvements, construction timing and practices, bank stabilization, soil bioengineering and use of erosion and drainage control methods. Maintenance of drainage controls should be a high priority to ensure continuing, effective protection of habitat and water quality.

Policy 7: Cleared and disturbed sites remaining after completion of construction should be promptly replanted with native vegetation in those locations where there was previously native vegetation or with other species as approved by the City in those areas where clearing occurred in areas vegetated with non-native or ornamental species. Where necessary to assure no net loss, applicants should be required to replant with native vegetation to mitigate for project impacts. Extensive lawns are discouraged due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications.

Policy 8: The removal of mature trees and native vegetation in the Urban Conservancy designation along Big Soos Creek and Jenkins Creek should be regulated in a manner that provides protection that is equal to the current Critical Area Regulations.

Policy 9: Vegetation removal in wetland areas and associated buffers within the majority of the Big Soos Creek and portions of the Jenkins Creek Shoreline management areas should also be restricted to only allow the removal of hazardous trees. Additional flexibility can be provided for areas within currently developed yards and non-wetland areas where more intensive urban development is anticipated. In these areas, removal of trees shall be limited to the minimum necessary to safely construct and operate a permitted shoreline use.

Policy 10: Vegetation removal should be restricted within portions of the Pipe Lake shoreline that are recommended for Urban Conservancy designation. Removal of non-hazardous mature trees and native vegetation within 115 feet of the shoreline should be severely restricted to maintain the current level of high ecological function and value. Upland areas in the Urban Conservancy can be regulated in a manner that provides greater flexibility, but a higher level of protection should be provided than currently provided in City-wide tree regulations.

Policy 11: Vegetation conservation areas are not necessarily intended to be closed to use and development but should provide for management of vegetation in a manner adequate to assure no net loss of shoreline ecological functions.

Policy 12: Aquatic weed management should involve usage of native plant materials wherever possible in soil bioengineering applications and habitat restoration activities. Where active removal or destruction of aquatic vegetation is necessary, it should be done only to the extent necessary to allow water-dependent activities to continue. Removal or modification of aquatic vegetation should be conducted in a manner that minimizes adverse impacts to native plant communities and/or salmonid habitat, and should include appropriate handling or disposal of weed materials and attached sediments.

Policy 13: The City should monitor and if necessary control aquatic invasive species in Pipe Lake to maintain eradication of Brazilian elodea and prevent establishment of other aquatic invasive species.

Policy 14: The City of Covington should provide information to the public about environmentally appropriate vegetation management, salmon-friendly landscaping for shoreline properties and alternatives to the use of pesticides and herbicides which impact water quality and aquatic stream habitat.

Policy 15: Property owners should use the following Best Management Practices (BMPs) when maintaining residential landscapes:

a. Avoid use of herbicides, fertilizers, insecticides, and fungicides along banks of streams, drainage channels, and shores of Pipe Lake, as well as in the water.

b. Limit the amount of lawn and garden watering so that there is no surface runoff.

c. Dispose of grass clippings, leaves, or twigs properly; do not sweep these materials into the street, into a body of water, or near a storm drain.

Policy 16: Encourage projects that restore and enhance shoreline resources. Strategies may include but are not limited to a simplified permit process, reduced or waiver of permit fees, development incentives, public outreach, encouraging landowners to replant with native vegetation, and city participation in a pilot-project that promotes shoreline restoration. Incentives should be provided for the retention

and planting of native vegetation, particularly in areas recommended for designation as Shoreline Residential. Incentives may include reduced building setbacks from Pipe Lake.

Vegetation Conservation Regulations

Regulation 1: All clearing and grading activities must adhere to the requirements of the City's code pertaining to land, clearing and grading (Covington Municipal Code, Chapters 18.45 and 18.60).

Regulation 2: Clearing and grading shall only be allowed in association with a permitted shoreline use or development with limited exceptions as set forth below:

A. Removal of noxious weeds as listed by the state in Chapter 16-750 WAC, provided such activity shall be conducted in a manner consistent with best management practices and the City of Covington's engineering design standards, and native vegetation shall be promptly reestablished in the disturbed area.

B. Modification of vegetation in association with a legal, non-conforming use or development provided that said modification is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife habitats. This could include, but is not limited to the maintenance of an existing developed yard and ornamental landscaping.

C. Normal and routine maintenance of existing trees, for view maintenance, safety or other purposes, provided, that said maintenance is consistent with accepted arboricultural practices, does not involve removal of healthy trees and is not detrimental to the health of any trees.

D. Maintenance or restoration of view sheds situated on public lands provided that said activity is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife habitat areas.

Regulation 3: Clearing and grading within areas classified by the City's Critical Areas Regulations as critical areas or their buffers is prohibited unless such removal is determined to be necessary to support a water oriented use, in connection with an approved alteration or poses a documented hazard to existing development, and no other feasible alternative exists. All clearing and grading in critical areas shall comply with all of the requirements of the City of Covington Critical Areas Regulations for the Shoreline Management Area, as contained in Appendix A. Vegetation replacement shall be required at an appropriate ratio to assure no net loss is achieved. The City shall require a report prepared by a qualified professional to assure impacts are mitigated.

Regulation 4: The City shall regulate tree removal and land clearing within shoreline jurisdiction to protect ecological functions. Outside of critical areas and associated buffers, tree and vegetation removal shall be minimized and significant trees and other vegetation shall be replaced at an

appropriate ratio to assure no net loss is achieved. The City shall require a report prepared by a qualified professional to assure impacts are mitigated.

Regulation 5: Limited removal of trees may be allowed within the Pipe Lake shoreline management area, provided mitigation is required and no net loss of ecological function occurs. Native understory vegetation shall be preserved outside of areas used for structures and their maintenance, active recreation and shoreline access.

Regulation 6: Within the Urban Conservancy environment of Pipe Lake, vegetation removal shall be prohibited within 115 feet of the ordinary high water mark, unless such removal is determined to be necessary to support a water oriented use or poses a documented hazard to existing development, and no other feasible alternative exists.

Regulation 7: More specific and stringent clearing and grading performance standards, including relevant requirements from the City of Covington Critical Areas Regulations for the Shoreline Management Area, as contained in Appendix A, may be required as a condition of permit issuance to ensure the proposal will result in no net loss of shoreline ecological functions.

Regulation 8: Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not developed must be replanted with native species or other species as approved by the City within one (1) year. Replanted areas shall be planned and maintained such that, within three (3) years time, the vegetation is at least ninety (90) percent reestablished.

Regulation 9: Any significant placement of materials from off-site (other than surcharge or preload), or the substantial creation or raising of dry upland shall be considered fill and shall also comply with the fill provisions in Chapter 8: Shoreline Modification Activity Regulations.

Regulation 10: In all cases where clearing is followed by revegetation, native plants shall be preferred. Native vegetation with similar species in quantities designed to achieve no net loss of ecological function shall be required for revegetation of cleared areas that contain existing native vegetation. Existing ornamental landscapes, including grass, may be replaced with similar species, unless mitigation is necessary to address project impacts.

Regulation 11: All shoreline development shall comply with the applicable requirements of the most recent edition of the adopted Surface Water Design Manual and all applicable City stormwater regulations. The City shall rely on source control standards and other BMPs contained in the most recent version of the Department of Ecology Stormwater Management Manual for Western Washington and The Low Impact Development Manual: Technical Guidance for Puget Sound.

Regulation 12: Stabilization of exposed erosion-prone surfaces within the shoreline environment shall, wherever feasible, utilize soil bioengineering techniques.

Regulation 13: Within stream buffers, hazard trees shall be turned into snags if feasible, and/or resulting woody debris shall be put into the stream channel if it can be done in a manner that does not create a hazard on the site or to downstream properties.

Regulation 14: Aquatic vegetation control shall only occur when native plant communities and associated habitats are threatened or where an existing water dependent use is restricted by the presence of weeds. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including Washington Department of Fish and Wildlife requirements. Control of aquatic vegetation by mechanical methods is exempt from the requirement to obtain a shoreline substantial development permit only if the bottom sediment or benthos is not disturbed in the process. It is assumed that mechanical removal of accumulated vegetation at a level closer than two (2) feet to the root level will disturb the bottom sediment and benthos layer.

Regulation 15: The control of aquatic vegetation by derooting, rotovating or other methods which disturb the bottom sediment or benthos shall be considered development for which a shoreline substantial development permit is required.

Regulation 16: The application of herbicides or pesticides in lakes, rivers, streams, wetlands, or ditches requires a permit from the Washington Department of Ecology and may require preparation of a SEPA checklist for review by other agencies. The individual(s) involved must obtain a pesticide applicator license from the Washington State Department of Agriculture.

Water Quality, Stormwater, and Non-Point Pollution

Applicability

Water quality is affected in numerous ways by human occupation and development of shoreline areas. Typically the increase in impermeable surfaces as a result of development increases stormwater runoff volumes, causing higher peak stormwater discharges at higher velocities that cause scouring and erosion of stream banks. Erosion increases suspended solids concentrations and turbidity in receiving waters, and carries heavy metals, household wastes, excess nutrients, and other pollutants into these waters. Increased nitrogen and phosphorus enrichment results in algal growth that depresses levels of dissolved oxygen in receiving waters. The degradation of water quality adversely impacts wildlife habitat and public health.

Maintaining high water quality standards and restoring degraded systems has been mandated in RCW 90.58. Water quality is impacted by a variety of uses and modifications and clearly needs broad policies and regulations to protect the shorelines and the associated waters of the state.

Water Quality, Stormwater, and Non-Point Pollution Policies

Policy 1: All shoreline uses and activities should be located, designed, constructed and maintained to minimize adverse impacts to water quality and fish and wildlife resources including spawning, nesting, rearing, and feeding areas and migratory routes.

Policy 2: The City should require property owners with failing septic systems to connect to the public sewer system where feasible.

Policy 3: The City should encourage those property owners along Jenkins Creek and Pipe Lake who currently have on-site septic systems to connect to the public sewer.

Policy 4: The City should re-examine its current policy and regulations which require property owners to connect to the public sewer as a condition of major redevelopment when the public sewer is located within 300 feet, to see if more stringent requirements are necessary.

Policy 5: The City should require reasonable setbacks, buffers and stormwater treatment and detention facilities to achieve the objective of no net loss of shoreline ecological functions and maintenance of good water quality.

Policy 6: The City should provide development incentives to private property owners to improve the water quality functions of shoreline buffers.

Policy 7: All measures for controlling erosion, reducing stream flow rates, or controlling floodwaters through the use of stream control works should be located, designed, constructed and maintained so existing water quality is protected or enhanced.

Policy 8: All measures for the treatment of runoff to maintain and/or enhance water quality should be conducted on-site at the source of contamination.

Policy 9: Dredging and filling activities should be limited to the protection of private property when all practicable alternatives have been exhausted and as part of an approved restoration plan conducted in a manner that protects the City's water quality. For detailed information on requirements and policies related to dredging, see the Shoreline Modification Activity Regulations section entitled Dredging.

Policy 10: The City should provide general information to the public about the use of land and human activities which impact water quality. This could be accomplished by encouraging educational curricula that provides students with first hand exposure to the issues and solutions, and through community activities, such as Adopt-A-Stream programs.

Policy 11: The following BMPs regarding water quality management should be supported:

a.Hazardous materials should always be disposed of properly if they cannot be reused or recycled. Household products identified by such labels as poisonous, corrosive, caustic, flammable, volatile, explosive, or dangerous, and their associated containers, should never be dumped outdoors at a residence.

b. Ground cloths or drip pans should be used beneath any outdoor work involving hazardous materials such as paints, wood preservatives, finishes, stains, and rust removers. Collected drips and spills should be recycled or disposed of properly.

c. The runoff from automobile washing should drain to vegetated areas, such as lawns. If soaps or detergents are used, products without phosphates should be selected. Use a high pressure hose with trigger to minimize water usage.

d. Limit the amount of lawn and garden watering so that surface water runoff containing pesticides, herbicides and fertilizers does not leave the property. Application of these chemicals should be avoided if precipitation is expected.

e. Paint and solvent mixing, fuel mixing, and similar handling of liquids should be performed on shore, or such that no spillage can occur directly in surface water bodies.

f. Feeding Canada geese and other waterfowl along the shoreline should be discouraged to prevent them from gathering in large numbers and potentially contaminating the water from bird droppings.

Policy 12: Target water quality improvements in Pipe Lake for phosphorous. Currently Pipe Lake is on the 303(d) list for total phosphorus impairment.

Policy 13: Target water quality improvements in Big Soos Creek for fecal coliform and dissolved oxygen. Currently Big Soos Creek is on the 303(d) list for total fecal coliform and dissolved oxygen impairments.

Policy 14: Incorporate policies that result from the City's efforts to comply with its NPDES Phase II stormwater permit requirements in the City's SMP.

Water Quality, Stormwater, and Non-Point Pollution Regulations

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

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

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

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

Chapter 5 Shoreline Environments

Introduction to Shoreline Environment Designations

The basic intent of a shoreline environment designation is to encourage development that will enhance the present or desired character of the shoreline. To accomplish this, shoreline segments are given an environment designation based on existing development patterns, biological capabilities and limitations, and the aspirations of the local citizenry.

Environment designations are categories that reflect the type of development that has or should take place in a given area. The Shoreline Master Program Guidelines recommend classifying shoreline environments using the following categories: "high intensity," "shoreline residential," "urban conservancy," "rural conservancy," "natural," and "aquatic."

These categories represent a relative range of development, from high to low intensity land use:

- "High-intensity" is appropriate for areas of high intensity water oriented commercial, transportation, and industrial development.
- "Shoreline residential" is intended to accommodate residential development, and appropriate public access and recreational uses consistent with other elements of shoreline management.
- "Urban conservancy" is a designation designed to protect and restore the ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed areas.
- "Rural conservancy" is intended for areas that protect ecological functions and conserve existing natural resources and that support, or have the capability to support, agricultural and recreational uses.
- "Natural" is intended to protect shorelines that remain relatively free of human influence or that include intact or minimally degraded shoreline functions that cannot support human use.
- And finally, "Aquatic" is a designation intended to protect, restore, and manage the areas waterward of the ordinary high water mark.

Additionally, local governments may establish an alternative environment designation(s), provided that it is consistent with the purposes and policies of the Shoreline Management Act and the Guidelines, including WAC 173-26211(5). For the City of Covington, a Medium-Intensity parallel environmental designation is established for areas planned for medium intensity residential and limited commercial uses in upland areas. DOE acknowledges the need for parallel designations in some cases to balance between use and protection. A more protective designation like Urban Conservancy is assigned to waterward areas and a more use oriented designation like Medium Intensity is assigned to landward areas.

Once a shoreline segment has been given an environment designation, management policies are developed. These management policies are used as the basis for determining uses and activities that can be permitted in each environment designation. Specific development standards are also established, which specify how and where permitted development can take place within each shoreline environment.

Need for Consistency

The Shoreline Management Act requires that policies for lands adjacent to the shorelines be consistent with the Shoreline Management Act, implementing rules, and the local shoreline master program. Conversely, local comprehensive plans provide the underlying framework within which master program provisions should fit. The Growth Management Act requires that shoreline master program policies be incorporated as an element of the comprehensive plan, and that all elements be internally consistent. In addition, under the Growth Management Act, all development regulations must be consistent with the comprehensive plan.

The Shoreline Guidelines identify three criteria for use in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and development regulations to be internally consistent, all three of the conditions below should be met:

(a) Provisions not precluding one another.

Comprehensive plan provisions and shoreline environment designation provisions should not preclude one another. To meet this criterion, the provisions of both the comprehensive plan and the master program must be able to be met. Further, when considered together and applied to any one piece of property, the master program use policies and regulations and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded.

(b) Use compatibility.

Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent existing or potential future water oriented uses, especially water dependent uses, from being restricted on shoreline areas because of impacts to nearby non-water-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development.

(c) Sufficient infrastructure.

Infrastructure and services provided in the comprehensive plan should be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Infrastructure plans must also be mutually consistent with shoreline designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

City of Covington Shoreline Environment Designations

This Master Program establishes four shoreline environments for the City of Covington. These shoreline environments shall include the shorelines of the City of Covington, including shorelands, surface waters, and bedlands.

These environments are derived from the Covington Shoreline Analysis Report the Covington Comprehensive Plan, and the environments recommended by the Shoreline Management Act and the Shoreline Guidelines. The Shoreline Analysis Report provides an inventory of natural and built conditions in the City's shoreline jurisdiction. The conditions identified in the inventory have been compared with the recommended shoreline environments and the most appropriate environments selected. The five (5) Covington shoreline environment designations are:

1. High-Intensity,
2. Medium-Intensity,
3. Shoreline Residential,
4. Urban Conservancy, and
5. Aquatic.

These shoreline environments are illustrated for the City of Covington in Figure 1, located at the end of this chapter, and described in the text below. Each shoreline description includes a definition and statement of purpose, followed by designation criteria, management policies, and development standards. Any undesignated shorelines are automatically assigned an Urban Conservancy environment designation.

High-Intensity Environment

Purpose

The purpose of the High-Intensity environment designation is to provide for high-intensity water-oriented and non-water oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

Designation criteria

Assign a High-Intensity environment designation to shoreline areas within incorporated municipalities and urban growth areas, if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

Designated Areas

Description

The only High-Intensity area is that portion of Jenkins Creek adjacent to the Bonneville Power Authority utility site as shown in Figure 1. Specifically, the High-Intensity area includes the shorelands of Jenkins Creek from the City boundary, upstream to eastern edge of the public right-of-way that contains the bridge at Covington Way SE.

Rationale

High Intensity designation is appropriate for shoreline areas of existing industrial use in Covington. The area of shoreline designated as High-Intensity is zoned Industrial under the Covington's development regulations

and is developed as the Bonneville Power Authority utility site. Although the site lies adjacent to the stream, utility activities are physically separated from the stream by a buffer of vegetation.

Management policies

1. Full utilization of existing High-Intensity area should be achieved before further expansion of the High-Intensity environment is allowed.
2. Priority shall be given first to water-dependent uses, then to water-related and water-enjoyment uses. Certain commercial uses allowed in the underlying zoning that are non-water oriented are allowed, provided public access is provided for new development. Mixed-use development and residential development are allowed, but must be buffered from existing and future industrial activity.
3. Where applicable, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
4. Where feasible, visual and physical public access should be required for in all new non-residential development.
5. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
6. Work with BPA to develop a more ecologically sound bank treatment than the current riprap and add additional vegetation immediately adjacent to the stream channel to widen the effective buffer.

Development Standards

Shoreline Use

Regulation 1: The following uses are prohibited in the Shoreline High-Intensity environment:

(a) Forest Practices

(b) Mining

(c) Parking as a primary use

(d) Solid Waste Disposal or Transfer Sites (excluding storage of recyclable materials)

Additional allowed conditional and prohibited uses for the High-Intensity environment are listed in Chapter 6, Specific Shoreline Use Policies and Regulations, Table I.

Height Limit

Regulation 2: Development shall be subject to the height limits established by the underlying zoning, but in no case shall the height exceed forty-five feet (45) above average grade level . The height limit shall not apply to television antennas, chimneys, flagpoles, public utilities, and similar appurtenances. A height of more than thirty-five feet (35) can only be achieved if the

applicant prepares a view corridor study indicating that the proposed structure would not diminish views of the Lake from surrounding properties.

Regulation 3: Unless otherwise specified herein, permanent and temporary structures shall be setback from ordinary high water mark as indicated in Chapter 6, Table II. Setbacks are measured landward, on a horizontal plane perpendicular to the shoreline.

Regulation 4: Development associated with public access and ecological restoration is not required to meet the minimum setback. However, where such development is approved within the minimum setback, the placement of structures and hard surfaces shall be limited to the minimum necessary for the feasible operation of the use while maintaining no net loss of ecological function.

Other Development Standards

Regulation 5: The amount of impervious surface shall be the minimum necessary to provide for the intended use. New development in the Shoreline High Intensity environment shall have no more than 50% impervious surface coverage. Impervious surface coverage is further restricted in the critical area buffer as indicated in Appendix A. Outside of critical areas, a credit towards the total impervious surface coverage may be provided through the use of permeable materials, such as pervious concrete, subject to approval by the Shoreline Administrator in consultation with the City Engineer. The City will encourage practices that further minimize impervious surfaces and stormwater runoff, including use of best available technologies.

Regulation 6: All development shall comply with the standards for interior setbacks, yard requirements and all applicable provisions in the Covington Municipal Code (CMC) for the zone in which the development occurs. In the event of a conflict between a provision in this SMP and a provision in another part of the CMC, the requirement that provides the most protection to the shoreline management area shall be applied.

Dimensional standards for the High Intensity environment are listed in Chapter 6, Specific Shoreline Use Policies and Regulations, Table II.

Medium-Intensity Environment

Purpose

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

Designation criteria

Assign a Medium-Intensity environment designation to shoreline areas if they currently support residential, water-enjoyment or commercial uses, are located in upland areas outside of stream buffers, and are suitable and planned for limited intensity commercial, residential or water-enjoyment uses.

Designated Areas

Description

Shoreline areas located outside of the 115 foot stream buffer along Jenkins Creek have a Medium-Intensity environment designation as shown in Figure 1. These areas include shorelands located at least 115 feet from the OHWM of Jenkins Creek up to 200 feet from OHWM of Jenkins Creek, and beyond to the boundary of any associated wetlands where these are found to exist. The linear extent of the Medium-Intensity environment extends to the eastern edge of the right of way that contains the Covington Way SE bridge, upstream to the point where two tributaries join and the 20 cfs mean annual threshold is no longer met. This designation runs parallel to an Urban Conservancy designation for shorelands adjacent to Jenkins Creek that meet the designation criteria.

Rationale

A parallel designation of Urban Conservancy and Medium-Intensity reflects the complex management objectives for the shoreline segment in areas currently zoned DN-7B. Somewhat more intensive urban development is anticipated along Wax Road on portions of sites currently developed as single-family homes. However, there are important recreational improvements planned for this area and a need to protect high value habitat resources such as wetlands.

Management policies

1. Full utilization of the existing Medium Intensity area should be achieved before further expansion of the Medium Intensity environment is allowed.
2. Regulations shall assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development shall include environmental cleanup and restoration to comply with any relevant state and federal law.
3. Where feasible, visual and physical public access shall be required for all new non-residential development.
4. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.
5. Water-dependent, water-related, and water enjoyment uses shall be given priority over non-water oriented uses. Limited commercial uses consistent with the underlying DN-7B zoning that are non-water oriented are allowed, provided public access is provided for new development. Residential uses are allowed.

Development Standards

Shoreline Use

Regulation 1: The following uses are prohibited in the Shoreline Medium-Intensity environment:

(a) Agriculture

(b) Forest Practices

(c) Industrial uses

(d) Mining

(e) Parking as a primary use

(f) Solid Waste Disposal or Transfer Sites (excluding storage of recyclable materials)

Additional allowed, conditional and prohibited uses for the Shoreline Medium-Intensity environment are listed in Chapter 6, Specific Shoreline Use Policies and Regulations, Table I.

Height Limit

Regulation 2: Development shall be subject to the height limits established by the underlying zoning, but in no case shall the height exceed forty-five feet (45) above average grade level . The height limit shall not apply to television antennas, chimneys, flagpoles, public utilities, and similar appurtenances. A height of more than thirty-five feet (35) can only be achieved if the applicant prepares a view corridor study indicating that the proposed structure would not diminish views of the Lake from surrounding properties.

Other Development Standards

Regulation 3: The amount of impervious surface shall be the minimum necessary to provide for the intended use. New development shall have no more than 50% impervious surface coverage. A credit towards the total impervious surface coverage may be provided through the use of permeable materials, such as pervious concrete, subject to approval by the Shoreline Administrator in consultation with the City Engineer. The City will encourage practices that further minimize imperious surfaces and stormwater runoff, including use of best available technologies.

Regulation 4: All development shall comply with the standards for interior setbacks, yard requirements and all applicable provisions in the Covington Municipal Code (CMC) for the zone in which the development occurs. In the event of a conflict between a provision in this SMP and a provision in another part of the CMC, the requirement that provides the most protection to the shoreline management area shall be applied.

Dimensional standards for the Medium Intensity environment are listed in Chapter 6, Specific Shoreline Use Policies and Regulations, Table II.

Shoreline Residential Environment

Purpose

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

Designation criteria

Assign a Shoreline Residential environment designation to shoreline areas if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

Designated Areas

Description

Shoreline Residential areas in Covington include those areas adjacent to Pipe Lake that are currently developed as single family or appurtenances, where that use is anticipated to continue in the future. Specifically, the Shoreline Residential environment includes all Pipe Lake shorelands with Covington City limits, with the exception of the Camp McCullough property.

Rationale

The segments of shoreline designated as Shoreline Residential are predominately residential and are planned for low to moderate residential density.

Management policies

1. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
2. Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.
3. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
4. Low impact development (LID) techniques, such as minimizing effective impervious surfaces, infiltration of run-off, use of green roofs and pervious pavers, and other techniques, shall be encouraged.

5. Encourage private property owners to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices by providing incentives, information and other assistance.
6. Limited non-residential uses, such as parks, day cares, home occupation businesses may be allowed, provided they are consistent with the residential character.

Development Standards

Shoreline Use

Regulation 1: The following are prohibited in the Shoreline Residential environment:

(a) Agriculture

(b) Commercial uses as a primary use (commercial uses that are incidental to the primary residential use and are compatible with the residential character of the neighborhood, such as home occupations, may be permitted).

(c) Forest Practices

(d) Industrial uses

(e) Mining

(f) Parking as a primary use

(g) Multi-family residential development

(h) Solid Waste Disposal or Transfer Sites (excluding storage of recyclable materials)

Regulation 2: The following may be permitted as conditional uses in the Shoreline Residential environment:

(a) Aquaculture

(b) Non-water oriented recreational facilities as a primary use and multi-use trails (non-water oriented recreational facilities as an accessory use and minor trails are permitted).

Additional allowed, conditional and prohibited uses for the Shoreline Residential environment are listed in Chapter 6, Specific Shoreline Use Policies and Regulations, Table 1.

Height Limit

Regulation 3: No new or expanded building or structure shall exceed a building height of thirty (30) feet, except the height limit shall not apply to television antennas, chimneys, flagpoles, public utilities, and similar appurtenances.

Buffers and Setbacks

Regulation 4: Unless otherwise specified herein, permanent and temporary structures shall be setback from ordinary high water mark as indicated in Chapter 6, Table II and the related Development Regulations for Residential Development in Chapter 6. Setbacks are measured landward, on a horizontal plane perpendicular to the shoreline.

Regulation 5: All development shall comply with the dimensional standards, including required yard setbacks, provided in the underlying zoning. Where a conflict exists between a requirement of this SMP and the zoning code, the SMP shall prevail.

Regulation 6: Development associated with public access and ecological restoration is not required to meet the minimum setback. However, where such development is approved within the minimum setback, the placement of structures, storage, and hard surfaces shall be limited to the minimum necessary for the feasible operation of the use and all impacts mitigated to achieve no net loss.

Lot Width

Regulation 7: The minimum required width of a lot in the Shoreline Residential environment shall be sixty (60) feet.

Other Development Standards

Regulation 8: The amount of impervious surface shall be the minimum necessary to provide for the intended use. The maximum allowed impervious surface coverage on a lot is 50%. A credit towards the total impervious surface coverage may be provided through the use of permeable materials, such as pervious concrete, subject to approval for the Shoreline Administrator the City Engineer. The City will encourage practices that further minimize imperious surfaces and stormwater runoff, including use of best available technologies.

Regulation 9: All development shall comply with the standards for interior setbacks, yard requirements and all applicable provisions in the Covington Municipal Code (CMC) for the zone in which the development occurs. In the event of a conflict between a provision in this SMP and a provision in another part of the CMC, the requirement that provides the most protection to the shoreline management area shall be applied.

Dimensional standards for the Shoreline Residential environment are listed in Chapter 6, Specific Shoreline Use Policies and Regulations, Table II.

Urban Conservancy Environment

Purpose

The purpose of the Urban Conservancy environment designation 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.

Designation criteria

Areas designated Urban Conservancy are those areas where one or more of the following characteristics apply:

1. They are suitable for water-related or water-enjoyment uses;
2. They are open space, flood plain, stream buffer 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 the potential for development that is compatible with ecological restoration.

Designated Areas

Description
Urban Conservancy areas includes all shorelands adjacent to Big Soos Creek and shorelands adjacent to Jenkins Creek upstream or eastern edge of the Covington Way SE bridge right-of-way and at Pipe Lake on the Camp McCullough property where open space, stream buffers and other sensitive lands exist as shown in Figure 1.

Please note: where the Urban Conservancy designation exists along Jenkins Creek, a "parallel designation" of Medium-Intensity is located in upland areas beyond the 115 foot stream buffer.

Rationale
The area zoned "Urban Separator" along Big Soos Creek is severely constrained by current zoning regulations and wetlands. Much of this area is undeveloped, but portions of it have the potential to experience additional low-density development.

While somewhat more intensive urban development is anticipated along Wax Road, there are important recreational improvements planned for the shoreline area adjacent to Jenkins Creek within Covington's shoreline jurisdiction. These include extension of the Jenkins Creek and 191st Place SE trails, and development of South Covington Park located directly adjacent to Jenkins Creek and accessible from SE Wax Road. There is also a need to protect high value habitat resources in this shoreline area such as wetlands.

Camp McCullough on Pipe Lake is designated as Urban Conservancy to preserve and enhance the ecological functions of the undeveloped portions of the shoreline and the City should make efforts to retain future

options for passive and active shoreline recreation and public access in the event of future development and conversion to a non-recreational use.

Management policies

1. Priority shall be give to water-oriented uses over non-water oriented uses.
2. Uses that preserve the natural character of the area or promote preservation of open space, flood plain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.
4. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the Urban Conservancy designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
5. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

Development Standards

Shoreline Use

Regulation 1: Land uses that are permitted in the Urban Conservancy shoreline environment include:

(a) Aquaculture

(b) Boating Facilities

(c) Water-oriented recreation

(d) Non-water oriented recreation as an accessory use

(e) Minor and Multiuse Trails

(f) Scientific, historical, cultural and educational uses

(g) Single-family residential development in the Jenkins Creek shoreline area (subject to critical area restrictions)

(h) Restoration activities

(i) Accessory Utilities

Regulation 2: The following may be permitted as conditional uses in the Urban Conservancy environment:

(a) Water-oriented commercial as an accessory use

(b) Parking as an Accessory Use

(c) Non-water oriented recreational facilities (primary)

(d) Single-family residential development within the Big Soos Creek shoreline area only

(e) Transportation Facilities

(f) Utilities (Primary) – See Specific Use Regulations in Chapter 6, only if no feasible location exists outside of the shoreline area

Regulation 3: All new uses and developments, permitted or allowed as conditional, in the Urban Conservancy environment must be compatible with conserving, protecting and restoring ecological conditions of the shoreline.

Regulation 4: The following are prohibited in the Urban Conservancy environment:

(a) Agriculture

(b) Commercial uses (Primary)

(c) Industrial uses

(d) Mining

(e) Single-family residential development within the Pipe Lake shoreline Environment

(f) Multi-family residential development

(g) Roads, utilities and parking areas that can be located outside of the shoreline area

Regulation 5: New uses and developments must demonstrate consistency with the Urban Conservancy management policies.

Additional allowed, conditional and prohibited uses for the Urban Conservancy shoreline environment are listed in Chapter 6, Specific Shoreline Use Policies and Regulations, Table I.

Height Limit

Regulation 6: No new or expanded building or structure shall exceed a building height of thirty (30) feet, except for cupolas, water tanks, flagpoles, transmission lines and radio towers and other similar structures.

Setbacks

Regulation 7: Permanent and temporary structures shall be set back from the ordinary high water mark as indicated in Chapter 6, Table II and the related Development Regulations for Recreation in

Chapter 6. Setbacks are measured landward, on a horizontal plane, perpendicular to the shoreline.

Regulation 8: Developments associated with a water-dependent uses, ecological restoration and public access are not required to meet the minimum setback. However, where such development can be approved within the minimum setback, the placement of structures, storage, and hard surfaces shall be limited to the minimum necessary for the successful operation of the use. In no case shall parking be allowed within the minimum setback without a shoreline variance.

Lot Width

Regulation 9: The minimum required width of a lot in the Urban Conservancy environment shall be one hundred (100) feet. Where the Urban Conservancy environment is a parallel shoreline environment along Jenkins Creek with the Medium-Intensity environment, no minimum lot width shall be required for residential development, provided a conservation easement shall be required for all portions of lots within the Urban Conservancy designation, native vegetation shall be preserved and joint consolidated access shall be provided.

Other Development Standards

Regulation 10: The amount of impervious surface shall be the minimum necessary to provide for the intended use. New development shall have no more than 10% impervious surface coverage, unless a variance is approved pursuant to criteria established in state law. In addition to relief through the variance procedure, outside of the critical area buffer defined in Appendix A, a credit towards the total impervious surface coverage may be provided through the use of permeable materials, such as pervious concrete, subject to approval by the Shoreline Administrator and the City Engineer. The use of this credit is limited and may only be applied to 20% of the site area. The City will encourage practices that further minimize imperious surfaces and stormwater runoff, including use of best available technologies.

Regulation 11: All development shall comply with the standards for interior setbacks, yard requirements and all applicable provisions in the Covington Municipal Code (CMC) for the zone in which the development occurs. In the event of a conflict between a provision in this SMP and a provision in another part of the CMC, the requirement that provides the most protection to the shoreline management area shall be applied.

Additional dimensional standards for the Urban Conservancy environment are listed in Chapter 6, Specific Shoreline Use Policies and Regulations, Table II.

Aquatic Environment

Purpose

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

Designation criteria

Assign an Aquatic environment designation to all areas waterward of the ordinary high-water mark.

Designated Areas

Description
Aquatic areas include all areas waterward of the ordinary high-water mark as shown in Figure 1.

Management policies

1. Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.
2. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
3. To reduce the impacts of shoreline development and increase effective use of water resources, shared use of over-water facilities should be encouraged.
4. All developments and uses on 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.
5. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
6. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

Development Standards

Regulations and performance standards that apply to individual uses and developments are listed in Chapter 6 Table I and Chapter 7 Table II.

Chapter 6 Specific Shoreline Use Policies and Regulations

As required by the Shoreline Management Act, this Master Program sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas. The policies and regulations cover the following uses and activities: Agriculture, Aquaculture, Boating Facilities, Commercial Development (Primary and Accessory), Forest Practices, Industrial Development, Mining, Parking (as a primary use), Recreational Facilities, Residential Development, Scientific, Historical, Cultural, or Educational Uses, Signage, Transportation, and Utilities (Primary and Accessory). The policies and regulations, which provide basic criteria for evaluating shoreline permit applications, are used to implement the broader goals, policies and intent of the Shoreline Management Act and this Program.

Shoreline Use and Dimensional Standards

KEY
P = Permitted Use
C = Conditional Use
X = Prohibited
Shoreline uses are allowed only if the underlying zoning allows the use.

TABLE 1. SHORELINE USES

SHORELINE USES	HIGH INTENSITY	MEDIUM INTENSITY	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	AQUATIC
Agriculture	X	X	X	X	X
Aquaculture	P	P	C	P	See adjacent Upland Environment
Boating Facilities (Public or serving 4 or more single family residences)	X	X	C	C	See adjacent Upland Environment
Commercial Development					
Primary	P	P	X	X	X
Accessory	P	P	P	C	X
Forest Practices	X	X	X	X	X
Industry	P	X	X	X	X
In Stream Structures					
As Part of a Fish Habitat Enhancement Project	P	P	P	P	P
Other	C	C	C	C	C

SHORELINE USES	HIGH INTENSITY	MEDIUM INTENSITY	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	AQUATIC
Mining	X	X	X	X	X
Parking					
As a Primary Use	X	X	X	X	X
As an Accessory Use	P	P	P	C	X
Recreational Facilities					
Water related	P	P	P	P	P
Non-water oriented					
As a Primary Use	P	P	C	C	X
As an Accessory Use	P	P	P	P	X
Multi-use Trails	P	P	C	C	X
Minor Trails	P	P	P	P	X
Residential Development					
Single family	P	P	P	P/C/X*	X
Multi-family	P	P	X	X	X
Scientific, Historical, Cultural, or Educational Uses	P	P	P	P	P
Transportation Facilities					
New Circulation Routes related to Permitted Shoreline Activities	C	C	C	C	C**
Expansion of Existing Circulation Systems	P	P	C	C	C**
Multi-Use Trails	P	P	C	C	C**
Utilities (Primary)					
Solid Waste Disposal or Transfer Sites (excluding storage of recyclable materials)	X	X	X	X	X
Power generation, substations and gas storage facilities	C	C	C	C	X
All Other, including high voltage transmission facilities, gas pipelines, sewage mains and treatment	C	C	C	C	C

SHORELINE USES	HIGH INTENSITY	MEDIUM INTENSITY	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	AQUATIC
facilities, water mains and storage facilities, and stormwater mains and regional treatment facilities.					
Utilities (Accessory)					
Local Public Water, Electric, and Natural Gas Distribution, Public Sewer collection, Cable and Telephone Service, and Appurtenances	P	P	P	C	C

*Allowed as a Permitted Use in the Jenkins Creek SMA, as a Conditional Use within the Big Soos Creek SMA, and Prohibited within the Pipe Lake SMA. In addition, all development must meet applicable critical area regulations in Appendix A.
** Bridges only in accordance with the Use standards for Transportation in Chapter 6 and Modification standards in Chapter 7.

TABLE 2. DIMENSIONAL STANDARDS FOR ALL USES IN ALL SHORELINE ENVIRONMENTS

SHORELINE STANDARD	HIGH INTENSITY	MEDIUM INTENSITY	SHORELINE RESIDENTIAL (3)	URBAN CONSERVANCY	AQUATIC
Maximum Height (1)	45 ft.	45 ft.	30 ft.	30 ft.	NA(4)
Shoreline Buffer (2)	115 ft.	115 ft.	115 ft. (standard) may be reduced to 60 ft. (minimum) with enhancement[1]	115 ft.	NA
Building Setback from Buffer	15 ft.	15 ft.	15 ft.	15 ft.	NA
Impervious Surface Coverage	60%	50%	50%	10%	NA
Minimum Lot Width	60 ft.	60 ft.(4)	60 ft.	100 ft.	NA

Notes:

(1) Development shall also be subject to the height limits established by the underlying zoning, but in no case shall the height exceed forty-five feet (45) above average grade level . The height limit shall not apply to television antennas, chimneys, flagpoles, public utilities, and similar appurtenances. A height of more than thirty-five feet (35) can only be achieved if the applicant prepares a view corridor study indicating that the proposed structure would not diminish views of the Lake from surrounding properties.

(2) Buffer widths may also be modified subject to the critical area provisions of 18.65.356, in Appendix A. Use and management of the buffer shall comply with all critical area standards unless a provision would preclude a water dependent use, e.g. pier.

(3) The maximum buffer along Pipe Lake applies unless the applicant implements voluntary enhancements as described in the Residential Development Subsection a(1)(b) below. The buffer may be reduced by the Shoreline Administrator up to the minimum buffer based on the criteria therein.

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

(4) Structures shall be the minimum necessary to accommodate a water dependent or other allowed use. Elevated decks, storage buildings, and other structures on docks are generally prohibited unless necessary for the operation of a water dependent use and no reasonable alternative exists.

Bulk Regulations for Development

In addition to the specific requirements for particular uses, the following standards shall apply to development in all environments:

<u>Shoreline Buffers and Building Setbacks</u>

Regulation 1: A one hundred fifteen (115)-foot standard buffer shall be established from the ordinary high water mark (OHWM) for all lots. The City may require that the standard buffer be applied from the edge of the channel migration zone instead of the OHWM where one is found to occur, based on a study submitted by a qualified professional. Water dependent development, such as docks, viewing platforms and boardwalks, and structures and development which are accessory to a recreational use, such as benches and trails, and other allowed alterations may be located within the buffer as provided herein.

Regulation 2: The standard buffer may be reduced by the Shoreline Administrator down to a minimum of sixty (60) feet in the Shoreline Residential Environment only, when buffer reduction impacts are mitigated using a combination of the mitigation options provided in the table below to achieve an equal or greater protection of lake ecological functions.

(a) Any further buffer reduction shall require approval of a shoreline variance application.

(b) Existing structures may be replaced in their current location and configuration to the extent allowed by local, state and federal agencies with jurisdiction.

(c) At least one Water Related Action must be undertaken in order to achieve the full buffer reduction allowed. A maximum of 35 feet in cumulative buffer reduction may be achieved under Upland Related Actions.

(d) Shoreline buffers may also be modified through the provisions contained in the Critical Area Regulations for the Shoreline Management Area contained in Appendix A.

However, in no case shall the buffer be reduced to less than an average minimum of 60 feet except through a shoreline variance.

(e) Buffer averaging as described in Appendix A may be used in combination with buffer reduction described above, however the buffer shall not be reduced to less than 50 feet at any location along a lot except through a shoreline variance.

Regulation 3: A fifteen foot building setback shall be required from the landward edge of the required shoreline buffer for all structures, except for those structures that are allowed within the buffer itself (e.g. water dependent docks and other allowed alterations).

Regulation 4: All property owners who obtain approval for a reduction in the buffer must record the final approved buffer and corresponding conditions in a Notice on Title, and provide a copy of the Notice on Title to the Shoreline Administrator.

Regulation 5: All property owners who obtain approval for a reduction in the buffer must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality. This plan shall be added to a Notice on Title, and a copy of the Notice on Title provided to the Shoreline Administrator.

Regulation 6: Restoration of native vegetation as discussed below shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. Preparation of a revegetation plan shall be completed by a qualified professional and include a monitoring and maintenance program that shall, at a minimum, include the following:

i. The goals and objectives for the mitigation plan;

ii. The criteria for assessing the mitigation;

iii. A monitoring plan that includes annual progress reports submitted to the Shoreline Administrator and that lasts for a period sufficient to establish that performance standards have been met as determined by the Shoreline Administrator, but no less than five years; and

iv. A contingency plan.

Regulation 7: Whenever the Shoreline Administrator determines that monitoring has established a significant adverse deviation from predicted impacts, or that mitigation or maintenance measures have failed, the applicant or the property owner shall be required to institute correction action, which shall also be subject to further monitoring as provided in this section.

Regulation 8: The Shoreline Administrator may require a performance bond(s) or other security in an amount sufficient to guarantee that all required mitigation measures will be completed in a manner that complies with conditions of approval and to guarantee satisfactory workmanship and materials for a period not to exceed five years. The Shoreline Administrator shall establish the conditions of the bond or other security according to the nature of the proposed mitigation, maintenance or monitoring and the likelihood and expense of correcting mitigation or maintenance failures.

Regulation 9: All costs associated with the mitigation/monitoring and planning including city expenses, shall be the responsibility of the applicant.

Regulation 10: Shoreline buffers may be reduced by the following:

TABLE 3. SHORELINE BUFFER REDUCTION MECHANISMS

REDUCTION MECHANISM		REDUCTION ALLOWANCE
Water Related Actions		
1	Removal of an existing bulkhead covering at least 75 percent of the shoreline frontage which is located at, below, or within 5 feet landward of the shoreline's ordinary high water mark (OHWM) and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, and beach/substrate composition.	30 feet
2	Removal of an existing bulkhead covering at least 25 percent of the shoreline frontage which is located at, below, or within 5 feet landward of the shoreline's OHWM and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, beach/substrate composition, and vegetation.	15 feet
3	Preservation of existing natural shoreline conditions (e.g. no bulkhead or other unnatural shoreline features such as upland impervious surfaces or other structural alterations) within 5 feet of the OHWM, including preservation of existing native vegetation.	10 feet

REDUCTION MECHANISM		REDUCTION ALLOWANCE
4	Preservation of existing trees and native vegetation and restoration of native vegetation, as necessary in at least 75 percent of the remaining buffer area. Up to 25 percent of the buffer area can be comprised of existing non-invasive, non-native vegetation. Up to 15 feet of the shoreline frontage (from OHWM landward to the building setback line) may be permitted for improved shoreline access, provided access areas shall be located to avoid areas of greater sensitivity and habitat value. (Note: this incentive cannot be used by any properties that currently have native vegetation in 75% of the remaining buffer area. The reduction would only be granted if ecological functions would be improved relative to the existing condition.)	20 feet
5	Preservation of existing trees and native vegetation and restoration of native vegetation in at least 25 percent of the remaining buffer area. Up to 15 feet of the shoreline frontage (from OHWM landward to the building setback line) may be permitted for improved shoreline access, provided access areas shall be located to avoid areas of greater sensitivity and habitat value.. (Note: this incentive cannot be used by any properties that currently have native vegetation in 25% of the remaining setback area. The reduction would only be granted if ecological functions would be improved relative to the existing condition.)	10 feet
Upland Related Actions		
6	Installation of biofiltration/infiltration mechanisms such as bioswales, created and/or enhanced wetlands, or ponds that exceed standard stormwater requirements.	15 feet
7	Installation of a “green” roof in accordance with the standards of the LEED Green Building Rating System.	15 feet
8	Installation of pervious material for driveway or road construction.	10 feet
9	Limiting total impervious surface in the reduced setback area to less than 5 percent.	10 feet
10	Preserving or restoring at least 20 percent of the total lot area outside of the reduced setback as native vegetation. No more than 20 percent of the total lot area can be lawn.	10 feet

Regulation 11: Accessory structures greater than two hundred (200) square feet that are not water dependent or water-related are prohibited within the residential shoreline buffer from the OHWM on Pipe Lake. Accessory structures that are not water dependent or related are not

allowed within the buffers of Big Soos Creek and Jenkins Creek. Accessory structures shall not exceed a maximum height of twelve (12) feet.

Specific Shoreline Use Regulations

Agriculture

Applicability

Agriculture refers to livestock, crop, vegetation and soil management. These activities are generally not applicable to the City of Covington. However, some legally non-conforming agricultural activities may occur within the Urban Conservancy environment along Big Soos Creek.

Regulations

Regulation 1: Only existing agricultural uses that pre-dated the incorporation of Covington in 1998 are permitted, subject to all requirements of the SMP, provided:

i. All uses and development shall be located and designed to assure no net loss of ecological functions and not have a significant adverse impact on other shoreline resources and values;

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

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

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

v. Lagoons, ponds or other waste retention facilities shall be subject to the same standard as described in subsection ii. above.

vi. Agricultural uses shall comply with all applicable critical area requirements in Appendix A.

Aquaculture

Applicability

Aquaculture is the farming of food fish, shellfish, or other aquatic plants and animals. This activity is of statewide interest. 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. The technology

associated with some forms of aquaculture is still in its formative stages and experimental. This shoreline master program recognizes the necessity of some latitude in the development of this use.

Regulations

Regulation 1: Aquaculture shall be allowed as a conditional or permitted use as indicated in Table 1.

Regulation 2: Aquaculture shall not be permitted in areas where it would result in a net loss of ecological functions or significantly conflict with navigation and other water-dependent uses.

Regulation 3: Aquacultural development shall conform to applicable state and federal policies and regulations, provided they are consistent with the Shoreline Management Act and this SMP to ensure no net loss of ecological function.

Regulation 4: Aquaculture facilities shall be designed and located such that they do not spread disease to native aquatic life, establish new nonnative species which cause significant ecological impacts, or significantly impact the aesthetic qualities of the shoreline..

Regulation 5: Impacts to ecological functions shall be mitigated in accordance with the sequence described in Chapter 4, Environmental Impacts, Regulation 5.

Boating Facilities

Applicability

Boating facilities are commercial or non-commercial moorage structures serving more than four single-family residences.

Regulations

Regulation 1: Boating facilities are restricted to suitable locations where such development can comply with the requirement for no net loss of ecological processes and functions and existing navigation rights and channels can be protected.

Regulation 2: Extended moorage on waters of the state without a lease or permission is prohibited, except as allowed by applicable state regulations and unless a lease or permission is obtained from the state and impacts to navigation and public access are mitigated.

Regulation 3: It is the applicant's responsibility to comply with all state agency policies and regulations, including all applicable health, safety and welfare requirements associated with the primary use or accessory use.

Regulation 4: The traffic generated by such a facility must be safely and conveniently handled by the streets serving the proposed facility.

Regulation 5: The design of new boating facilities must avoid, then minimize potential aesthetic impacts. Where such impacts cannot be avoided they shall be mitigated, included the use of vegetation and screening and placement.

Regulation 6: Public access is required for all new boating facilities, unless such access is determined to not be feasible, subject to all requirements in Chapter 4 of this SMP.

Regulation 7: Live-aboards are not allowed; sleeping on boats and nighttime use of boats are prohibited.

Regulation 8: The facility must have provisions available for cleanup of accidental spills of contaminants.

Commercial Development

Applicability

Commercial development means those uses that are involved in wholesale, retail, service and business trade. The SMP gives preference to first to water-dependent uses, then to other water oriented commercial uses, through the environment designations, regulations and public access and restoration requirements contained in it.

Regulations

Regulation 1: Water -enjoyment and water-related commercial uses shall be required to provide public access and ecological restoration where feasible based on the Public Access standards in Chapter 4 and shall avoid, minimize and mitigate impacts to existing vegetation, recreation and public access.

Regulation 2: New non-water-oriented commercial uses shall be prohibited unless they are part of a mixed-use project, navigation is severely limited, and the use provides a significant public benefit with regards to SMA objectives.

Regulation 3: Non-water dependent commercial uses are prohibited over water, except in existing structures and where necessary to support water-dependent uses.

Regulation 4: Primary commercial uses are permitted outright only in the High Intensity and Medium Intensity environment (the latter of these is not contiguous with the ordinary high water mark).

Regulation 5: Home occupations are allowed within the Shoreline Residential environment provided they meet the requirements of CMC 18.80.100.

Regulation 6: Commercial development may be allowed with a Conditional Use Permit in the Urban Conservancy environment as an accessory use to a permitted recreational use or facility. Examples of limited accessory commercial uses to permitted recreational uses and/or facilities are as follows:

(a) Concession stands, and

(b) Private parties or receptions and banquets (one-time CUP to establish scope of activity allowed).

Regulation 7: Outside commercial vendors may not establish business facilities in shoreline jurisdiction. This prohibition does not preclude a vendor from being hired to provide services in connection with a permitted use.

Forest Practices

Applicability

Forest practices are those activities not covered by the Forest Practices Act involving conversion to non-forest use.

Regulations

Regulation 1: Forest practices are prohibited in all shoreline environments.

Industry

Applicability

Industrial developments are facilities for processing, manufacturing and storage of finished or semi-finished goods and food stuffs. The SMP gives preference to first to water-dependent uses, then to water oriented uses, through the environment designations, regulations and public access and restoration requirements contained in it. The High-Intensity environment, the only location where Industrial uses are allowed, is located along Big Soos Creek, a non-navigable water body.

Regulations

Regulation 1: Industrial activity is permitted only in the High Intensity environment.

Regulation 2: The location, design and construction of industrial uses, development and redevelopment shall not result in a net loss of ecological processes and functions.

Regulation 3: New industrial uses and redevelopment shall include cleanup and restoration of impacted sites.

Regulation 4: Public access shall be required, unless such a requirement would interfere with operations or create hazards to life or property.

Regulation 5: Industrial activity shall utilize the best techniques in design and siting to prevent the release of contaminants into the adjoining water bodies in order to comply with the water quality standards promulgated under the provisions of RCW Chapter 90.48;

Regulation 6: All new non-water oriented industrial uses must be part of a mixed-use project and provide a significant public benefit such as ecological restoration, environmental clean-up, historic preservation, or public access.

Mining

Applicability

Mining is the removal of naturally occurring materials from the earth for beneficial uses. There are no mining activities existing or anticipated within the shoreline jurisdiction. If such uses are established in the future, regulations will be established by amendment to this program.

Regulations

Regulation 1: Mining is a prohibited use activity within shoreline jurisdiction.

Parking

Applicability

Parking is the temporary storage of automobiles or other motorized vehicles. The following provisions apply only to parking that is accessory to a permitted shoreline use. Parking as a primary use and parking which serves a use not permitted in shoreline jurisdiction is prohibited.

Policies

Policy 1: Parking in shoreline areas should be minimized and should primarily be used to provide appropriate disabled access.

Policy 2: Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance.

Policy 3: Parking in shoreline areas should not restrict access to the site by necessary public safety vehicles, utility vehicles, or other vehicles requiring access to shoreline properties.

Regulations

Regulation 1: Parking in shoreline areas must directly serve a permitted shoreline use.

Regulation 2: Parking facilities shall provide adequate provisions to control surface water runoff to prevent it from contaminating water bodies.

Regulation 3: Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.

Regulation 4: Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Exterior parking facilities for nonresidential uses shall be landscaped with vegetation in such a manner that plantings provide effective screening within three years of project completion.

Regulation 5: New and reconstructed parking areas within the Urban Conservancy shoreline environment shall utilize Low Impact Development (LID) techniques as appropriate and as described in

the most recent edition of the Low Impact Development Manual: Technical Guidance for Puget Sound.

Recreational Development

Applicability

Recreational uses include passive activities, such as walking, viewing and fishing. Recreational development also includes facilities for active uses, such as swimming, boating, and other outdoor recreation uses. This section applies to both public and private shoreline recreational facilities (excluding private residences) in Covington. Commercial recreational development shall be consistent with the provisions for commercial development.

Policies

Policy 1: Recreational facilities in the shoreline jurisdiction should emphasize water-oriented uses. Non-water-oriented recreational facilities as a primary facility should be located outside of the shoreline area in the Shoreline Residential and Urban Conservancy environments where possible. Non-water-oriented recreational facilities as an accessory facility are allowed, except in the Aquatic environment, where they are prohibited.

Policy 2: The coordination of local, state and federal recreation planning should be encouraged. Shoreline recreational developments should be consistent with the City's adopted park, recreation and open space plans.

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

Policy 4: The use of shoreline street ends and publicly owned lands for public access and development of recreational opportunities should be encouraged. The City should identify existing encroachments on City property and work with private property owners to resolve such encroachments.

Policy 5: The City encourages land acquisitions for open space that preserve critical areas, provide wildlife habitat, and offer opportunities for education and interpretation within shoreline jurisdiction.

Policy 6: Shoreline areas with a potential for providing recreation or public access opportunities should be identified for this use and acquired by lease or purchase, or through partnerships with nonprofit and service organizations, and incorporated into the park and open space system.

Policy 7: Covington supports linking existing and future shoreline parks, recreation areas and public access points with a non-motorized trail system.

Policy 8: Recreational activities should be designed to avoid conflict with private property rights, and to minimize and mitigate objectionable impacts on adjoining property.

Policy 9: Public access should not contribute to the net loss of ecological functions of Covington's critical areas, such as wetlands and wildlife habitats.

Regulations

Regulation 1: All structures associated with a recreational use, other than accessory or water dependent structures, such as docks and boardwalks, that provide access to the water for that use, shall

maintain the required setback from the OHWM pursuant to Table 2: Table of Dimensional Standards. However, existing structures may be replaced in their current location and configuration to the extent allowed by local, state and federal agencies with jurisdiction. Any further setback reduction shall require approval of a shoreline variance application.

Regulation 2: Private and public recreation areas shall protect existing native vegetation in the shoreline area and restore vegetation impacted by development activities. Recreational use and development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.

Regulation 3: Water-dependent or water-related activities such as swimming, boating, and fishing, and activities that benefit from waterfront scenery such as picnicking, hiking and bicycling shall be given priority in planning public and private recreation sites in the shoreline area.

Regulation 4: All recreational developments shall make adequate provisions for:

i. Motorized, non-motorized and pedestrian access;

ii. The prevention of trespass onto adjacent properties, including but not limited to landscaping and fencing;

iii. Protection and restoration of critical areas and shoreline processes and functions;

iv. Signs indicating the publics' right of access to shoreline areas, installed and maintained in conspicuous locations at the point of access and the entrance; and

v. Buffering of such development from adjacent private property or natural area.

Regulation 5: In approving shoreline recreational developments, the City shall ensure that the development will maintain, enhance or restore desirable shoreline features.

Regulation 6: Swimming areas shall be separated from boat launch areas.

Regulation 7: The construction of swimming facilities, piers, moorages, floats and launching facilities waterward of the OHWM shall be governed by the regulations relating to overwater structure construction in the Shoreline Modifications Section of this SMP.

Regulation 8: Public boat launching facilities may be developed, provided the traffic generated by such a facility can be safely and conveniently handled by the streets serving the proposed facility.

Regulation 9: Fragile and unique shoreline areas with valuable ecological functions, such as wetlands and wildlife habitats, shall be used only for non-intensive recreation activities that do not involve the construction of structures.

Regulation 10: Recreation developments such as golf courses and playfields that require periodic use of fertilizers, pesticides or other chemicals, or that support high-intensity activities as a primary use, such as sporting events, shall be located outside of shoreline jurisdiction.

Regulation 11: Proposals for new or expanded recreational development shall include provisions for public access to the shoreline.

Regulation 12: A new or expanded shoreline recreational development or use that does not provide public access may be authorized provided the applicant demonstrates compliance with the Public Access regulations contained in Chapter 4.

Regulation 13: Developments, uses, and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual or physical access to the water and the shorelines. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed either by clearing or by topping.

Regulation 14: Public access sites shall be connected directly to the nearest public street or other public access.

Regulation 15: Public access sites shall be made barrier free for the physically disabled where feasible.

Regulation 16: Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.

Regulation 17: Trails shall be designed to avoid significant impacts to sensitive natural systems and shall result in no net loss of ecological functions. Trails shall be located at least 80 feet from the ordinary high water mark. In limited areas, trails may be closer to provide viewpoints or based on topography. Mitigation sequencing as described in Chapter 4, Environmental Impacts, Regulation 5, shall be required.

Regulation 18: Whenever financially feasible and practical, the City shall require the use of building materials and technologies whose production and use result in reduced environmental impacts when developing public access to the shoreline. Porous pavements shall be used unless the applicant demonstrates to the satisfaction of the Shoreline Administrator that such materials would restrict accessibility, pose a safety hazard or are not sufficiently durable.

Residential Development

Applicability

Residential development means one or more buildings, structures, lots, parcels, or portions thereof which are designed for and used or intended to be used to provide a place of abode for human beings, including single family residences and other detached dwellings together with accessory uses and structures normally applicable to residential uses located landward of the OHWM, including, but not limited to, swimming pools, garages, sheds, fences and saunas.

Single-family residential development is prohibited in the Aquatic environment and the Pipe Lake Urban Conservancy environment, and is conditionally permitted within the Big Soos Creek Urban Conservancy environment. Single-family residential development is allowed in the Jenkins Creek Urban Conservancy environment and the Shoreline Residential environment. Multi-family residential development is allowed only in the High Intensity and Medium Intensity environments.

Permit Exemptions

A substantial development permit is not required for construction within the Shoreline Residential environment by an owner, lessee or contract purchaser of a single-family residence for his own use or the use of his family. However, such construction and all normal appurtenant structures must otherwise conform to this Master Program. An "appurtenance" means a structure that is necessarily connected to the use and enjoyment of a single family residence and includes a garage, deck, driveway, utilities, fences and grading which does not exceed two hundred fifty (250) cubic yards (see WAC 173-27-040 (2g)).

Policies

Policy 1: Recognizing the single purpose, irreversible and space consumptive nature of shoreline residential development, new development should provide adequate setbacks and natural buffers from the water and ample open space among structures to protect natural features, preserve views and minimize use conflicts.

Policy 2: Residential development should be permitted only where there are adequate provisions for utilities, circulation and access.

Policy 3: Residential development should be designed to preserve shoreline aesthetic characteristics, views, and minimize physical impacts to shoreline ecological functions.

Policy 4: Residential development should be designed so as to preserve existing shoreline vegetation, control erosion and protect water quality using best management practices and where possible, utilizing low impact development technologies. The City shall encourage the use of alternative paving products, such as pervious pavers, as a mechanism for reducing impervious surfaces and surface water runoff.

Policy 5: The City encourages the use of joint-use piers and docks in lieu of individual piers and docks for each waterfront lot to protect the ecological functions of the lake.

Policy 6: Development shall, at a minimum, achieve a no net loss of ecological functions necessary to sustain shoreline natural resources, even for exempt development.

Policy 7: The City shall provide development incentives, including reduced shoreline setbacks, to encourage the protection, enhancement and restoration of high functioning buffers and natural or semi-natural shorelines.

Regulations

Regulation 1: All structures associated with a residential use, except water dependent structures, such as docks, shall maintain the required setback from the OHWM pursuant to Chapter 6, Table 2: Table of Dimensional Standards. However, existing structures may be replaced in their current location and configuration to the extent allowed by local, state and federal agencies

with jurisdiction. Any further setback reduction beyond the flexibility allowed in Table 2 shall require approval of a shoreline variance application.

Regulation 2: Single-family development is permitted in the High Intensity, Medium Intensity, Shoreline Residential and Jenkins Creek Urban Conservancy environment, and is conditionally permitted in the Big Soos Creek Urban Conservancy environment, subject to the general regulations of this Shoreline Master Program, provided single family development is permitted in the underlying zone classification.

Regulation 3: Multifamily residential is permitted in the High Intensity and Medium Intensity shoreline environments, subject to the general regulations of this Shoreline Master Program, provided multi- family development is permitted in the underlying zone classification.

Regulation 4: Over-water residences and floating homes are prohibited.

Regulation 5: All new residential lots created through subdivision or short subdivision must be designed, configured and developed to:

A. Prevent the loss of ecological functions at full build-out;
B. Prevent the need for new shoreline stabilization or flood hazard reductions measures; and
C. Must be consistent with SMP environment designations and standards.

Regulation 6: New multiunit residential development, including the subdivision of land for more than four parcels, must provide community and/or public access in conformance with the Public Access regulations in Chapter 4.

Regulation 7: The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to infiltration systems, and other Low Impact Development techniques shall be incorporated into new development as feasible, in accordance with the City's adopted Surface Water Design Manual and the Low Impact Development Technical Guidance Manual for Puget Sound.

Regulation 8: Residential development shall result in no net loss of shoreline ecological functions. Mitigation sequencing as described in Chapter 4, Environmental Impacts, Regulation 5, shall be required. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.

Regulation 9: The City shall notify affected Indian Tribes when a single family home or other exempt development is proposed in the Jenkins Creek or Big Soos Creek shoreline areas.

Signs

Applicability

A sign is defined as a device of any material or medium, including structural component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes. The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on or off premises.

Policies

Policy 1: 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.

Policy 2: Signs should not block or otherwise interfere with visual access to the water or shorelines.

Policy 3: Outdoor advertising and billboards are not an appropriate use of the shoreline area within shoreline jurisdiction.

Regulations

Regulation 1: Signs shall comply with the City's sign regulations.

Regulation 2: Sign plans and designs shall be submitted for review and approval at the time of shoreline permit approval.

Regulation 3: All signs shall be located and designed to minimize interference with vistas, viewpoints and visual access to the shoreline.

Regulation 4: Overwater signs shall be related to water-dependent uses only.

Regulation 5: Temporary or obsolete signs shall be removed within ten (10) days of elections or termination of any other functions. Examples of temporary signs include: real estate signs, directions to events, political advertisements, event or holiday signs, and construction signs.

Regulation 6: Signs that do not meet the policies and regulations of this program shall be removed or required to conform within two years of the adoption of this master program.

Allowable Signs

Regulation 7: The following types of signs may be allowed in all shoreline environments:

i. Water navigational signs and highway signs necessary for operation, safety and direction.

ii. Public information signs directly relating to a shoreline use or activity.

iii. Off-premise, freestanding signs for community identification, information, or directional purposes.

iv. National, site and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.

Prohibited Signs

Regulation 8: The following signs are prohibited:

i. Off-premises detached outdoor advertising signs.

ii. Spinners, streamers, pennants, flashing lights, and other animated signs used for commercial purposes.

iii. Signs placed on trees or other natural features.

iv. Commercial signs for products, services, or facilities located off-site.

Transportation Facilities

Applicability

Transportation facilities are those structures and developments that aid in land, air, and water surface movement of people, goods, and services. They include roads and highways, bridges, bikeways, trails, heliports, and other related facilities. In Covington, these uses account for a minimal percentage of the shoreline land inventory. However, the impact of these facilities on shorelines can be substantial.

Policies

Policy 1: Road and bridge construction or expansion in the shoreline jurisdiction should be avoided, unless necessary to serve a permitted shoreline use or found to be within the public interest.

Policy 2: Joint use of transportation corridors within the shoreline jurisdiction for roads, utilities and motorized and non-motorized forms of transportation should be encouraged.

Policy 3: In determining the use of the City's share of any future mitigation monies from large public infrastructure projects (e.g. major transportation facility construction, expansion or replacement) consideration shall be given towards the use of a significant portion of such monies for shoreline restoration and public access projects and priorities identified in the City's SMP and Restoration Plan.

Regulations

Regulation 1: New road and bridge construction in shoreline jurisdiction shall be avoided and minimized and allowed only through a CUP when related to and necessary for the support of permitted shoreline activities.

Regulation 2: New stream crossings associated with transportation uses shall be avoided if possible and minimized in number and total area impacted (e.g. perpendicular crossings). Culverts and bridges shall be designed to allow passage of adult and juvenile salmon pursuant to WDFW Fish Passage Guidelines and accommodate the flow of water, sediment and woody debris

during the 100 year return storm event. Bridge abutments shall be located outside of floodplains and channel migration zones if feasible.

Regulation 3: The expansion of existing roadways may be allowed if found to be within the public interest; a CUP is required in certain shoreline environments – see Table 1 (Uses).

Regulation 4: All proposed transportation facilities must demonstrate how they have been planned, located and designed where routes will have the least possible adverse effect on unique or fragile shoreline features.

Regulation 5: Transportation facility development shall result in no net loss of shoreline ecological functions and no adverse impacts on existing or planned water dependent uses. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.

Regulation 6: Expansion of existing roadways shall be allowed only when the proponent demonstrates that:

i. No alternative route is feasible; and

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

iii. The roadway is found to be in the public interest.

Regulation 7: Where feasible, transportation and utility facilities shall be required to make joint use of rights of- way, and to consolidate crossings of water bodies to minimize adverse impacts to the shoreline.

Regulation 8: Developers of roads must be able to demonstrate that efforts have been made to coordinate with existing land use plans including the Shoreline Master Program and the City's Comprehensive Plan.

Regulation 9: All debris and other waste materials from roadway construction shall be disposed of in such a way as to prevent their entry into any water body.

Regulation 10: Road designs must provide safe pedestrian and non-motorized vehicular crossings where public access to shorelines is intended.

Regulation 11: Circulation system plans within the shoreline shall consider and include appropriate provisions for pedestrian, bicycle and public transportation.

Regulation 12: Any road expansion affecting streams and waterways shall be designed to allow fish passage and minimum impact to habitat.

Regulation 13: Streets within shoreline jurisdiction shall be designed with the minimum pavement area required. Gravel and more innovative materials shall be used where feasible for pathways and road shoulders to minimize the amount of impermeable surfaces and help to maintain a more natural appearance.

Regulation 14: The City shall give preference to mechanical means for roadside brush control on roads in shoreline jurisdiction rather than the use of herbicides.

Utilities (Primary)

Applicability

Utilities are services and facilities that produce, transmit, store, process or dispose of electric power, gas, water, stormwater, sewage and communications. Utilities are split into primary and accessory based on type and scale. The provisions of this section apply to primary utilities, such as solid waste handling and disposal, water transmission lines, sewage treatment facilities and mains, power generating or transfer facilities, gas distribution lines and storage facilities, stormwater mains and regional treatment facilities.

Policies

Policy 1: New primary utilities are discouraged in the SMA jurisdiction and should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible, rather than creating new corridors. Joint use of rights of- way and corridors should be encouraged.

Policy 2: Primary utilities should avoid locating in critical areas unless no feasible alternatives exist.

Policy 3: New primary utility facilities should be located so that extensive shoreline protection is not required, and water flow and motorized and non-motorized circulation or navigation are not restricted.

Policy 4: Wherever primary utility facilities and corridors must be placed in a shoreline area, they should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground or designed to minimize impacts on the aesthetic qualities of the shoreline area.

Policy 5: Utility facilities and rights-of-way should be designed to preserve the natural landscape and to minimize conflicts with present and planned land uses.

Policy 6: Solid waste disposal activities and facilities should be prohibited in shoreline areas. "Solid waste facilities" are not to be construed as storage of recyclable materials.

Policy 7: The City should participate in watershed management planning programs and implement measures to maintain, enhance and restore Covington's shoreline areas, including measures to control and reduce nonpoint pollution and sedimentation.

Policy 8: In determining the use of the City's share of any future mitigation monies from significant utility projects (e.g. major facility construction, expansion or replacement), consideration shall be given towards the use of a significant portion of such monies for shoreline restoration and public access projects and priorities identified in the City's SMP and Restoration Plan.

Regulations

Regulation 1: Primary utilities shall be located outside of SMA jurisdiction, unless no other feasible option exists. When allowed under this regulation, primary utilities shall be located landward of the ordinary high water mark, unless such location is not feasible or would result in potentially greater environmental impacts.

Regulation 2: Primary utility facilities shall avoid disturbance of unique and fragile areas, as well as wildlife spawning, nesting and rearing areas. Utility facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement, with consideration given to ongoing impacts, such as permanent restrictions on vegetation growing under transmission lines or within utility corridors. Failure to meet this standard will result in permit denial.

Regulation 3: Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety or create a significant and disproportionate liability for the owner.

Regulation 4: Utility lines shall utilize existing rights-of-way, corridors and/or bridge crossings whenever possible and shall avoid duplication and construction of new corridors in all shoreline areas. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.

Regulation 5: Stream and water crossings should be minimized according to standard mitigation sequencing. Boring shall be the preferred method unless it is demonstrated that this is not feasible. Utilities that need to cross water shall be deep enough to avoid the need for bank stabilization or fill. Consideration shall be given to flooding and erosion when considering appropriate depth.

Regulation 6: Solid waste disposal sites and facilities are prohibited in the shoreline environment. "Solid waste facilities" are not to be construed as storage of recyclable materials.

Regulation 7: Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views.

Regulation 8: Primary utility development shall provide screening of facilities from water bodies and adjacent properties in a manner that is compatible with the surrounding environment. Type of screening required shall be determined by the City on a case-by-case basis.

Regulation 9: Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed areas shall be restored to their pre-project condition.

Regulation 10: The City shall hold public meetings prior to the issuance of a Substantial Development Permit for a major primary utility project in accordance with the administrative procedures outlined in this Master Program to allow for the greatest amount of public input to help guide utility-related decisions.

Regulation 11: In the case of a new primary utility corridor serving multiple municipalities and districts, the determination as to the feasibility of alternative routes outside the shoreline area and/or the possibility of using existing rights-of-way may include, but is not necessarily limited to, consideration of: (1) construction impacts on the community, including impacts on traffic and adjacent land uses; (2) engineering considerations, including restoration or disruption issues related to the presence of existing public improvements and utility facilities; (3) environmental considerations, including impacts on the ecological function both within and outside of the shoreline; and (4) project considerations, including construction cost, construction schedule and expenditures or contractual commitments made by the proponent of the corridor, prior to the adoption of this SMP, in acquiring rights for the proposed route.

Regulation 12: Utility production and processing facilities such as power plants, and sewage treatment plants, or parts of those facilities that are non-water-oriented shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.

Utilities (Accessory)

Applicability

Utilities have been split into primary and accessory, with accessory meaning utilities that affect small-scale distribution services connected directly to the uses along the shoreline. For example, power, telephone, cable, water service, sewer service lines, stormwater collection and conveyance, are all considered as utilities accessory to shoreline uses. They are covered in this section because they concern all types of development and have the potential of impacting the quality of the shoreline and its waters.

Policies

Policy 1: Utilities are necessary to serve shoreline uses and should be properly installed to protect the shoreline and water from contamination and degradation.

Policy 2: Utility facilities and right-of-ways should be located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground.

Policy 3: Utility facilities should be designed and located in a manner which preserves the natural landscape and shoreline ecology, and minimize conflicts with present and planned land uses.

Regulations

Regulation 1: Utility developments shall, through coordination with government agencies, provide for compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems, and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, or endanger public health and safety.

Regulation 2: In shoreline areas, utility transmission lines, pipelines, and cables shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way, corridors and/or bridge crossings whenever possible. Proposals for new corridors in shoreline areas involving water crossings must fully substantiate the infeasibility of existing routes.

Regulation 3: Utility facilities shall be located and designed to avoid destruction of, or damage to, important wildlife areas, and other unique and fragile areas. Utility facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.

Regulation 4: Clearing for the installation or maintenance of utilities shall be kept to a minimum, and upon project completion, any disturbed area shall be restored as nearly as possible to pre-project conditions, including replanting with native species, or other species as approved by the City, and maintenance care. If the previous condition is identified as being undesirable, then landscaping and other improvements shall be undertaken.

Regulation 5: The location and construction of outfalls shall comply with all appropriate federal, state, county and city regulations.

Regulation 6: The City of Covington shall maintain, enhance and restore the natural drainage systems to protect water quality, reduce flooding, reduce public costs and prevent associated environmental degradation for a no net loss of shoreline ecological functions.

Regulation 7: The City shall establish maintenance procedures to assure continued proper functioning of surface water management and drainage systems.

Regulation 8: New utility lines including electricity, communications, and fuel lines shall be located underground. Existing above ground lines shall be moved underground when properties are redeveloped or in conjunction with major system upgrades or replacements.

Regulation 9: Utility development shall include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with utility operations, endanger the public health, safety, and welfare, or create a significant and disproportionate liability for the owner.

Regulation 10: Proposals for new utility corridors shall fully substantiate the infeasibility of using existing utility corridors.

Regulation 11: Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way.

Chapter 7 Specific Shoreline Modification Policies and Regulations

Introduction

Shoreline modification activities are those actions that modify the physical configuration or qualities of the shoreline area. Shoreline modification activities are, by definition, undertaken in support of or in preparation for a permitted shoreline use. A single use may require several different shoreline modification activities.

Shoreline modification activity policies and regulations are intended to assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources and to prevent, reduce and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the Shoreline Management Act. A proposed development must meet all of the regulations for both applicable uses and activities as well as the general and environment designation regulations.

This chapter has been divided into four sections: Clearing and Grading, Shoreline Stabilization, Dredging and Fill, and Overwater Structures.

Table of Shoreline Modification Activities

Interpretation of shoreline modification table.

The shoreline modification table below determines whether a specific shoreline modification is allowed within each of the shoreline environments. See standards following the table for a full explanation of activities and required conditions for permitted activities. The shoreline environment is located on the vertical column of the table and the specific modification is located on the horizontal row of the table.

The table should be interpreted as follows:

A. If the letter "X" appears in the box at the intersection of the column and the row, the modification is not allowed in that shoreline environment.

B. If the letter "P" appears in the box at the intersection of the column and the row, the modification may be allowed within the shoreline environment, and only if the underlying zoning allows the modification.

C. If the letters "CU" appears in the box at the intersection of the column and the row, the modification may be allowed within the shoreline environment subject to the shoreline conditional use review procedures specified in this SMP, and only if the underlying zoning allows the modification.

Note that Medium and High-Intensity environments are located along stream systems that do not generally accommodate navigation. No overwater structures exist in these areas currently, and future demand for overwater structures, with the exception of bridges for motorized or non-motorized uses, is not anticipated. Overwater structures, with the exception of bridges, are therefore prohibited in these two shoreline environments.

TABLE 4: SHORELINE MODIFICATIONS

Shoreline Modification Activity	High-Intensity	Medium-Intensity	Shoreline Residential	Urban Conservancy	Aquatic
CLEARING AND GRADING	P	P	P	CU	See adjacent upland environment
SHORELINE STABILIZATION					
Beach Restoration and Enhancement (on Pipe Lake)	X	X	P	CU	
Soil Bioengineering	P	P	P	P	
Bulkheads (on Pipe Lake)	X	X	P	CU	
Breakwaters	X	X	X	X	
Groins	X	X	X	X	
Jetties	X	X	X	X	
Riprap (on streams)	CU	X	X	X	
Weirs	X	X	X	X	X
DREDGING AND FILL					See adjacent upland environment
Dredging	CU	CU	CU	CU	
Fill	CU	CU	CU	CU	
OVERWATER STRUCTURES					
Accessory to Residential Structures:					
Recreational Float	X	X	P	X*	
Boathouse	X	X	X	X	
Pier, Dock, Float, Joint Use Structure	X	X	P	X	
Launching Ramp	X	X	X	X	
Launching Rails	X	X	CU	X	
Excavated Moorage	X	X	X	X	
Foot or Bike Bridge	CU	CU	CU	CU	
Road Bridge	CU	CU	CU	CU	
Not Accessory to Residential Structures:	X	X			
Recreational Float	X	X	CU	CU/X*	
Boathouse	X	X	X	X	
Joint Use Pier, Dock, Float	X	X	P	CU/X*	
Non-Joint Use Pier, Dock Float	X	X	CU	CU/X*	
Launching Ramp	X	X	X	CU/X*	
Launching Rails	X	X	CU	CU/X*	
Excavated Moorage	X	X	X	X	

Shoreline Modification Activity	High-Intensity	Medium-Intensity	Shoreline Residential	Urban Conservancy	Aquatic
Road Bridge	CU	CU	CU	CU	
Foot or Bike Bridge	CU	CU	CU	CU	

*Not allowed in the Big Soos Creek and/or Jenkins Creek SMA

Shoreline Stabilization (including Bulkheads)

Applicability

Shoreline stabilization includes actions taken to address erosion impacts to property caused by natural processes, such as current, flood, wake or wave action. These actions include all structural and nonstructural methods. "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete or boulder bulkheads, while "soft" structural measures rely on less rigid materials, such as gravel placement, logs and anchor trees and beach enhancement. Nonstructural methods include building setbacks, relocation of the structure to be protected, bioengineering with vegetation, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. The means taken to reduce damage caused by erosion, accretion, and flooding must recognize the positive aspects of each of these processes in order to retain the benefits of these natural occurrences. Erosion does not occur without accretion (deposition and accumulation) of material eroded, such as formation of a beach. Likewise, accretion cannot occur unless material has been eroded. Specific examples of stabilization in Covington include beach restoration and enhancement, soil bioengineering and bulkheads along Pipe Lake, and in-stream structures, weirs and rip-rap along Big Soos and Jenkins Creeks.

General policies and regulations addressing shoreline stabilization methods applicable to the City are presented in the following sections. Additional discussion of the individual stabilization methods, and policies and regulations specific to them, are provided following the general policies and regulations section.

<u>Beach Restoration or Enhancement on Pipe Lake</u>

Beach enhancement is the alteration of exposed and submerged shorelines for the purpose of stabilization, recreational enhancement, and or/aquatic habitat creation or restoration using native or similar material. The materials used are dependent on the intended use. For recreation purposes, various grades of clean sand or pea gravel are often used to create a beach above the ordinary high water mark. Restoration or re-creation of a shore feature may require a rock and gravel matrix and/or creation of other materials appropriate for the intended use.

<u>Soil Bioengineering</u>

Soil bioengineering is the term given to the practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of bundles of stems, root systems, or other living plant material; fabric or other soil stabilization techniques; and limited rock toe protection, where appropriate. Soil

bioengineering projects often include fisheries habitat enhancement measures such as anchored logs or root wads, in project design. Soil bioengineering techniques may be applied to shoreline areas and the upland areas away from the immediate shoreline.

The use of soil bioengineering as a shoreline stabilization technique is a viable and proven alternative to riprap, concrete and other structural solutions. It provides habitat while maintaining and preserving the natural character of the shoreline. Soil bioengineering is the preferred "best practices" choice when considering shoreline stabilization.

Bulkheads

Bulkheads are shoreline structures, either sloped or vertical, usually constructed parallel to the shore. The primary purpose they serve is to contain and prevent the loss of soil caused by erosion or wave action.

Bulkheads have historically been constructed of poured-in-place or precast concrete, concrete blocks, steel or aluminum sheet piling, wood or wood and structural steel combinations, and boulders. Bulkheads may be either thin structures penetrating deep into the ground or more massive structures resting on the surface.

Uses and activities related to bulkheads which are identified as separate use activities in this program, such as Fill and Residential Development, are subject to the regulations for those uses in addition to the standards for bulkheads established in this section.

Groins

Groins are barrier-type structures of rock, wooden piling or other materials constructed across the beach itself and extending into the water with the intent to obstruct sand and sediment carried by the littoral drift action along shorelines. Groins have limited applicability in Covington's shoreline jurisdiction.

Riprap

Riprap is a layer, facing, or protective mound of stones placed along streams to prevent erosion, scour, or sloughing of a structure or embankment. Riprap is also the term for the stone so used. Currently riprap can be found along Jenkins Creek adjacent to the BPA site.

Weirs

A weir is a small overflow-type dam commonly used to raise the level of a river or stream. Because a weir will typically increase the oxygen content of the water as it passes over the crest, a weir can have a detrimental effect on the local ecology of a river system. A weir will also artificially reduce the upstream water velocity, which can lead to an increase in siltation. And a weir may pose a barrier to migrating fish. Currently one low, rock-and-mortar weir exists in Jenkins Creek, a short distance below the Covington Way SE crossing. The weir was constructed to prevent channel downcutting at the bridge site and eliminate the risk of exposing the footings.

NOTE: EXEMPTIONS ARE REFERENCED IN CHAPTER 8 –ADMINISTRATION

General Policies

Policy 1: Proposals for shoreline stabilization activities should address the impact of these activities on the shoreline environment. This planning should consider off-site erosion, accretion, or flood damage that might occur as a result of shoreline stabilization structures or activities.

Policy 2: Shoreline stabilization should be permitted only when it has been demonstrated that shoreline stabilization is necessary for the protection of existing legally established structures and public improvements, and that there are no other feasible options to the proposed shoreline stabilization that have less impact on the shoreline environment.

Policy 3: Hard structural solutions to reduce shoreline damage from erosion should be allowed only after it is demonstrated that nonstructural or soft structural solutions would not provide sufficient protection to existing improvements. Nonstructural and soft structural solutions include (but are not limited to) soil bioengineering, beach enhancement, alternative site designs, drainage improvements and increased building setbacks (for proposed structures).

Policy 4: Shoreline stabilization shall not be used to create new or newly usable land.

Policy 5: Shoreline stabilization structures should allow passage of ground and surface waters into water bodies.

Policy 6: The burden of proof for the need for shoreline stabilization to protect existing developments rests on the applicant(s).

Policy 7: Shoreline stabilization structures should be located, designed and constructed to minimize adverse impact on the property of others.

Policy 8: All new shoreline development should be located and designed to prevent or minimize the need for shoreline modification activities.

Policy 9: Areas of significance in the spawning, nesting, rearing, or residency of aquatic and terrestrial biota should be given special consideration in the review of shoreline stabilization actions.

Policy 10: Breakwater construction, jetties and groins are generally unnecessary within Covington's shoreline jurisdiction and should be prohibited.

Policy 11: Allow repair and maintenance of existing weirs, but encourage removal or modification of the weir if a more environmentally sensitive solution is feasible.

Policy 12: Give special attention to the effect shoreline modification structures will have on aesthetic qualities of the shoreline, public access and use of the water.

Policy 13: Consider the effect that proposed shoreline modification structures have on ecosystem-wide processes (e.g., sediment movement) and functions (e.g., habitat). Make provisions to avoid and minimize impacts where feasible.

Policy 14: Mitigation for shoreline stabilization must be provided to achieve no net loss of ecological functions necessary to sustain shoreline natural resources.

Policy 15: Explore a range of solutions to reduce the amount of bulkheads and shoreline armoring over time around Pipe Lake and restore natural bank conditions. Alternative methods to typical shoreline armoring using native vegetation and other natural shoreline features should be considered.

Regulations

Regulation 1: All shoreline modification activities shall be in support of a permitted shoreline use that is in conformance with the provisions of this Master Program unless it can be demonstrated that such activities are necessary and in the public interest.

Regulation 2: All shoreline modification activities within the City must comply with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.

General Shoreline Stabilization

Regulation 3: Shoreline stabilization and modification projects shall avoid and then minimize adverse impacts to the environment to the greatest extent feasible, and where such impacts cannot be avoided, mitigation shall be provided to achieve no net loss of shoreline ecological functions. Mitigation sequencing as described in Chapter 4, Environmental Impacts, Regulation 5, shall be required.

Regulation 4: All clearing and grading activities associated with shoreline stabilization must adhere to the requirements of the City's code pertaining to land, clearing and grading (Covington Municipal Code, Chapters 18.45 and 18.60) and the Vegetation Conservation (Clearing and Grading) regulations in Chapter 4 of this SMP.

Regulation 5: An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. The following standards shall apply:`

A. The replacement structure is designed, located, sized, and constructed and mitigation is provided as necessary to assure no net loss of ecological functions.

B. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing stabilization structure unless as provided below and in Regulation 28 of this Chapter.

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

Regulation 6: Shoreline stabilization shall not be used to create new lands.

Regulation 7: New structural stabilization measures and enlargement of existing structural stabilization measures shall be limited to the minimum size necessary and shall be permitted only when it has been conclusively demonstrated through scientific analysis that shoreline stabilization is necessary to protect existing primary structures, public improvements, ecological restoration projects or hazardous substance remediation projects from erosion, and that nonstructural

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

Regulation 8: Structural (soft and hard) solutions to reduce shoreline damage from erosion shall be allowed only after it is demonstrated through a geotechnical report that non-structural solutions would not provide sufficient protection to existing improvements. In such cases, soft structural solutions shall be used if feasible. The geotechnical report shall evaluate the necessity of structural stabilization measures by estimating timeframes and rates of erosion (damage within 3 years), urgency of replacement, alternative solutions and other pertinent factors. Non-structural solutions include (but are not limited to) soil bioengineering, beach enhancement, alternative site designs, drainage improvements and increased building setbacks (for proposed structures).

Regulation 9: All new shoreline development, including the division of land into new parcels, shall be located and designed to prevent the need for shoreline stabilization activities based on geotechnical analysis.

Regulation 10: New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.

Regulation 11: New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas is prohibited, and where stabilization is allowed, impacts to sediment transport shall be avoided or minimized and stabilization measures shall be specifically designed so as not to create a need for shoreline stabilization elsewhere.

Regulation 12: Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface drainage into the water body.

Regulation 13: Shoreline stabilization shall be designed so as not to constitute a hazard to navigation and to not substantially interfere with visual access to the water.

Regulation 14: Professional design (as approved by the City) of all shoreline stabilization or modification structures is required.

Regulation 15: Public access shall be required as part of publicly financed shoreline stabilization measures unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigable significant ecological impacts, unavoidable conflict with proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

Beach/Bank Restoration and Enhancement

Regulation 16: Bank restoration and enhancement along Big Soos and Jenkins Creeks shall be subject to critical area regulations for shorelines contained in Appendix A.

Regulation 17: Beach enhancement along Pipe Lake may be permitted when the applicant has demonstrated that the project will not detrimentally interrupt littoral processes, redirect waves, current, or sediment to other shorelines, or adversely affect adjacent properties or habitat.

Natural Beach Restoration/Enhancement

Regulation 18: Design Standards. Natural beach restoration/enhancement shall not:

a. Extend waterward more than the minimum amount necessary to achieve the desired stabilization;

b. Disturb significant amounts of valuable shallow water fish/wildlife habitat without appropriate mitigation of the impacts.

Regulation 19: Natural Beach Restoration Construction Standards:

a. The size and/or mix of new materials to be added to a beach shall be as similar as possible to that of the natural beach sediment, but large enough to resist normal current, wake, or wave action at the site.

b. The restored beach shall approximate, and may slightly exceed, the natural beach width, height, bulk or profile (but not as much as to obviously create additional dry land).

Regulation 20: Beach enhancement is prohibited within fish and/or wildlife spawning, nesting, or breeding habitat that would be adversely affected by it and also where littoral drift of the enhancement materials would adversely affect adjacent spawning grounds or other areas of biological significance.

Soil Bioengineering

Regulation 21: All soil bioengineering projects shall use native plant materials appropriate to the specific area including trees, shrubs, and groundcovers, unless demonstrated infeasible for the particular site.

Regulation 22: Unless more specific and restrictive Critical Area Regulations apply, all cleared areas shall be replanted immediately following construction and irrigated (if necessary) to ensure that within three (3) years all vegetation is one hundred (100) percent reestablished to achieve no net loss of ecological functions of the shoreline area. Areas that fail to adequately reestablish vegetation shall be replanted with approved plant materials until such time as the plantings are viable. Additional performance standards may be established by the Shoreline Administrator in administrative rules.

Regulation 23: Bank stabilization in the form of a vegetated buffer zone shall be maintained (e.g., weeding, watering, dead plant replacement) for a minimum of three (3) years. The buffer zone shall exclude activities that could disturb the site. Where determined necessary by the Shoreline Administrator, fencing may be required to ensure protection of buffer plantings.

Regulation 24: All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.

Regulation 25: More specific and stringent performance standards, including relevant requirements from the City of Covington Critical Areas Regulations for the Shoreline Management Area, as contained in Appendix A, may be required as a condition of permit issuance to ensure the proposal will result in no net loss of shoreline ecological functions.

Breakwaters

Regulation 26: Breakwaters, jetties, and groins are not a permitted shoreline modification activity in Covington.

Bulkheads

Regulation 27: Bulkhead design and development shall conform to the General Shoreline Stabilization regulations in this SMP and all other applicable local, state, and federal agency regulations.

Regulation 28: On all shorelines, bulkheads shall not be placed waterward of the ordinary high water mark (OHWM), unless as provided below.

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

B. Bulkheads may tie in flush with existing bulkheads on adjoining properties, provided that the new bulkhead does not extend waterward of OHWM, except that which is necessary to make the connection to the adjoining bulkhead. In such circumstances, the remaining portion of the bulkhead shall be placed landward of the existing OHWM such that no net loss of lake occurs and the design complies with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.

C. If 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 shoreline stabilization structure.

Regulation 29: When a bulkhead is required at a public access site, provisions for safe public access to the water shall be incorporated into bulkhead design.

Regulation 30: Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of a bulkhead.

Regulation 31: Fill behind bulkheads shall be limited to an average of one (1) cubic yard per linear foot of bulkhead. Any filling in excess of this amount shall be considered a regulated activity subject to the policies and regulations in this SMP pertaining to fill activities and the requirement for obtaining a shoreline substantial development permit.

Weirs

Regulation 32: Repair and maintenance of existing weirs shall be permitted. However, when a more environmentally solution is feasible, existing weirs shall be removed or modified.

Regulation 33: New weirs shall not be allowed.

Regulation 34: Replacement weirs must be constructed using natural materials and must be consistent with other policies and regulations of this chapter.

Dredging and Fill

Applicability

Although these activities may occur separately from one another, they are often all parts of the same shoreline modification process and are, therefore, considered together in the following policies and regulations.

Dredging and Dredge Material Disposal

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any stream, or lake and associated shorelines, side channels, and wetlands. In a lake setting, dredging is normally done for specific purposes or uses such as deepening a navigational channel or obtaining bottom material.

Dredge material is disposed of on land or into water bodies and may be intended for the purpose of creating new or additional lands for other uses. Dredge spoil varies from clean river sand to organic sludge. While some of this material is deposited on land, a significant portion is dumped, intentionally or unintentionally, back into the water or immediately adjacent to the water.

Of all activities on shorelines, dredging poses one of the greatest threats to water quality and aquatic life. In most cases, dredging occurs in shallow areas and may disturb the aquatic environment in the following ways: (1) temporary reduction of water clarity from suspended sediments, (2) loss of aquatic plants and animals by direct removal or from the sedimentation of suspended materials, (3) alteration of the nutrient and oxygen levels of the water column, and (4) suspension of toxic materials from the sediments into the water column.

Fill

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

Fill is usually considered in locations where the water is shallow and where rooted vegetation often occurs. In their natural condition, these same areas provide valuable habitat for fish and wildlife feeding, breeding, and shelter. Biologically, the shallow vegetation areas tend to be highly productive portions of the lake. For these reasons, governmental agencies and scientific experts have generally sought to prohibit or restrict fill.

The policies contained herein are intended to focus on the aspects of natural systems affected by dredging and the disposal of dredge material, man-made fill, cuts, excavations and site grading actions, while at the same time recognizing the community's needs.

Fill occurring on dry land landward of the OHWM which does not exceed a cost of five thousand seven hundred eighteen (5,718) dollars or 250 cubic yards of material (per WAC 173-27-040), does not require a shoreline substantial development permit, as noted elsewhere in this Master Program. This development, however, must comply with all other applicable policies and regulations as defined in this Master Program.

Policies

Dredging

Policy 16: Dredging is only allowed as a conditional use in all shoreline environments. Dredging should be restricted to the minimum necessary to support water-dependent uses, for expansion or alteration of public utility facilities, for bridges within a public right-of-way, and for environmental restoration and enhancement projects, and only when other solutions would result in greater environmental impact.

Policy 17: Dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill or construction material is prohibited.

Policy 18: In all cases, dredging operations should be planned and conducted to protect and maintain existing aquatic habitat and other shoreline uses, properties, and values.

Policy 19: Dredging operations should be designed and scheduled to avoid impacts to fish, including impacts to fish migration, rearing, feeding and spawning.

Policy 20: Dredging and dredge material disposal should be located and conducted in a manner that minimizes damage to existing ecological values and natural resources of the area to be dredged and of the disposal site. Proposals that include dredging shall provide mitigation to achieve no net loss of shoreline ecological functions.

Policy 21: Dredge material disposal in water bodies should generally be prohibited, except for habitat improvement projects.

Policy 22: Dredging and dredge material disposal should be prohibited in wetlands, except for the purposes of enhancing valuable wetland functions. A design prepared by a qualified wetland scientist is required prior to allowing dredging and/or disposal of dredge spoils into a wetland.

Policy 23: Dredging should utilize techniques (such as hydraulic dredging instead of agitation dredging) that cause minimal dispersal and broadcast of bottom material.

Policy 24: The City of Covington may impose limitations on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.

Fill

Policy 25: Shoreline fill should only be permitted as a conditional use in all shoreline environments.

Policy 26: Fills waterward of the OHWM should be restricted to the minimum necessary to support water-dependent uses, public access, cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, disposal of dredged sediments in accordance with DNR rules, expansion or alteration of transportation facilities of statewide significance when other alternatives are not feasible, and for mitigation actions, environmental restoration and enhancement projects, and only when other solutions would result in greater environmental impact.

Policy 27: Shoreline fills should be designed and located so that there will be no significant damage to existing ecological systems or natural resources, and no alteration of local currents, channel migration, surface and subsurface drainage, or flood waters which would result in hazard to adjacent life, property, or natural resource systems.

Policy 28: Where permitted, fill coverage should be the minimum necessary to provide for the proposed use. Fills should be permitted only when tied to a specific development proposal that is permitted by the master program.

Policy 29: In evaluating fill projects, factors such as current and potential public use of the shoreline and water surface area, navigation, water flow and drainage, water quality and habitat should be considered and protected to the maximum extent feasible. Further, the City should assess the overall value of the fill site in its present state versus the proposed shoreline use to be created to ensure consistency with the Shoreline Management Act and this Master Program.

Policy 30: The perimeter of fills should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time. Natural appearing and self-sustaining control methods are preferred over structural methods.

Policy 31: Replenishing sand on public and private community beaches should be allowed, subject to the assurance of no net loss of ecological functions in the process.

Policy 32: Sanitary landfills should not be located in shoreline jurisdiction.

Regulations

Dredging

Regulation 35: Dredging and disposal of dredge material shall avoid, then minimize significant ecological impact; impacts that cannot be avoided shall be mitigated to achieve no net loss of ecological processes and functions. Proposals for dredging and dredge disposal shall include details on all feasible mitigation measures to protect aquatic habitats.

Regulation 36: New development siting and design shall avoid the need for new and maintenance dredging.

Regulation 37: Dredging may be permitted as a conditional use activity only:

A. When necessary to support a water-dependent use or navigation;

B. For expansion or alteration of public utility facilities or bridges within a public right-of-way, when there is a documented need and where other feasible sites or routes do not exist;

C. As part of approved mitigation actions, environmental restoration and habitat enhancement projects;

D. To improve water quality;

E. To improve water flow or manage flooding when a biological and geomorphological study demonstrates a long-term benefit to hazard reduction and the action is part of a comprehensive flood management solution; or

F. To clean up contaminated sediments; and

G. In all cases where dredging is allowed, technical information demonstrates water circulation, littoral drift, aquatic life and water quality will not be substantially impaired;

E. Other solutions would result in greater environmental impact; and

G. Applicable permits of other local, state and federal agencies have been obtained.

Regulation 38: Dredging to establish, expand, relocate or reconfigure navigation channels is allowed only where needed to accommodate existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is required consistent with standard mitigation sequencing.

Regulation 39: Maintenance dredging of established navigation channels and basins shall be restricted to maintaining the previously dredged and/or existing authorized location, depth and width.

Regulation 40: When dredging is permitted, the extent of dredging shall be the minimum necessary to accommodate the proposed use.

Regulation 41: Dredging for the primary purpose of obtaining fill or construction material is prohibited.

Regulation 42: Dredging material which will not subsequently cause violation of State Water Quality Standards may be used in permitted landfill projects.

Regulation 43: Excavations on beaches shall include precautions to prevent the migration of fine grain sediments, disturbed by the excavation, onto adjacent beach areas. Excavations on beaches shall be backfilled promptly using material of similar composition and similar or coarser grain size.

Regulation 44: Dredging shall be timed so that it does not interfere with aquatic life.

Regulation 45: Individual disposal operations shall comply with Department of Natural Resources leasing practices, the Department of Ecology Water Quality Certification process, and the permit requirements of the State Department of Fish and Wildlife and the U.S. Army Corps of Engineers.

Regulation 46: Depositing dredge materials in water areas may be allowed only by conditional use permit for one (1) or more of the following reasons:

A. For wildlife habitat improvement;

B. To correct problems of material distribution adversely affecting fish;

C. For permitted beach enhancement;

E. When the alternative of depositing material on land is demonstrated to be more detrimental to shoreline resources than depositing it in water areas; or

F. In approved open-water disposal sites as identified by appropriate agencies.

Regulation 47: Disposal of dredge material shall be done only in approved sites.

Regulation 48: Dredging and dredge material disposal is prohibited in wetlands, except for the purposes of enhancing valuable wetland functions. A design prepared by a qualified wetland scientist is required prior to allowing dredging and/or disposal of dredge spoils into a wetland.

Regulation 49: Dredge disposal within the channel migration zone of Jenkins Creek, Big Soos Creek or any other steam is prohibited, unless part of an approved fish habitat improvement project and studies indicate it is consistent with the criteria in Regulation 52 below.

Regulation 50: Dredging shall utilize techniques (such as hydraulic dredging instead of agitation dredging) that cause minimal dispersal and broadcast of bottom material.

Regulation 51: The City of Covington may impose limitations on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.

Regulation 52: If suitable alternatives for land disposal are not available or are infeasible, water disposal sites shall be identified consistent with the following criteria:

A. Disposal will not interfere with geo-hydrologic processes;

B. The dredge spoil has been analyzed by qualified personnel and found to be nonpolluting;

C. Aquatic life will not be adversely affected; and

D. The site and method of disposal meets all requirements of applicable regulatory agencies.

<u>Fill</u>

Regulation 53: Fills waterward of the OHWM shall be permitted as a conditional use only:

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

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

C. For fisheries, aquaculture, or wildlife enhancement projects.

Regulation 54: Fills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area.

Regulation 55: All perimeters of fills shall be provided with vegetation, retaining walls, or other satisfactory mechanisms for erosion prevention and sediment capture.

Regulation 56: Fill proposals must demonstrate, at a minimum, that they will result in no net loss of shoreline ecological functions.

Regulation 57: Fill shall be permitted only where it is demonstrated that the proposed action will not:

A. Result in significant damage to water quality, fish, aquatic habitat, and/or wildlife habitat; or

B. Adversely alter natural drainage and circulation patterns, currents, or stream flows, or significantly reduce flood water holding capabilities.

Regulation 58: No refuse disposal sites, solid waste disposal sites, or sanitary fills shall be permitted along the Pipe Lake shoreline in Covington.

Regulation 59: Any placement or removal of materials landward of the OHWM shall comply with the provisions in the Clearing and Grading section of this chapter.

Overwater Structures: Piers, Docks, Floats and Buoys

Applicability

Piers and docks are structures which abut the shoreline and are used as a landing or moorage place for commercial transport or recreational watercraft. Piers are built on fixed platforms supported by piles above the water, while docks float upon the water. Some piers may terminate in a float section that is connected by a ramp. Recreational floats are also addressed in this section. These floats are independent, anchored, off-shore platforms used for water-dependent recreational activities such as swimming and diving. Certain mooring structures such as moorage piles, buoys and boat lifts are not generally used on Pipe Lake since motorized boats are not allowed on the Lake.

All of these types of facilities have positive and negative environmental aspects. Floating docks generally have less of a visual impact than piers on pilings. However, in the nearshore, docks can interrupt littoral drift of sediments and other suspended materials, and significantly shade the aquatic environment throughout their length. Pile piers can provide diverse habitat for both desirable and undesirable aquatic life. Excavated moorage involves dredging and will disturb bottom sediments and aquatic life. Docks and piers alike create impediments to boat traffic. Pier construction requires regulation to protect navigation rights, to protect shoreline aesthetics, and to maintain the useable water surface and aquatic lands for life forms characteristic and important to those areas.

Exemptions

Piers for private, noncommercial pleasure craft, common to a single-family residence, and costing less than ten thousand ($10,000) dollars are exempt from the requirement for a shoreline substantial development permit pursuant to RCW 90.58.030(3)(e)(vii) and WAC 173-27-040(h).

The ten thousand dollar ($10,000) threshold will be adjusted for inflation by the State Office of Financial Management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. Any changes to this monetary threshold adopted by the State are hereby incorporated by reference.

The City will review all development proposals for piers to determine if:

1. The proposal is or is not exempt from the requirement for a substantial development permit;

2. The proposal is suitably located and designed and that all potential impacts have been recognized and mitigated such that there is no net loss of shoreline ecological functions; and

3. The proposal is consistent with the intent, policies, and regulations of the Act and this Master Program.

Policies

Policy 33: New piers and docks should be allowed only for public access and water-dependent uses.

Policy 34: New piers and docks should be restricted to the minimum size necessary and permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.

Policy 35: Piers and docks should be discouraged where conflicts with recreational boaters and other recreational water activities would be created by pier construction.

Policy 36: The further proliferation of single-purpose piers and docks should be discouraged. Preference should be given to the shared use piers in shoreline areas.

Policy 37: Substantial additions or alterations to overwater structures, including, but not limited to, substantial developments, should be in conformance with the policies and regulations set forth in this Master Program.

Policy 38: Preference should be given to fixed-pile piers elevated above the OHWM. Floating docks shall not be allowed unless the applicant can demonstrate why a fixed pile pier is not feasible or will result in greater impacts. Recreational floats should be allowed where they are intended to support public or private recreational uses, or in lieu of fixed piers adjacent to residential land uses.

Policy 39: New moorage covers should not be allowed.

Policy 40: Overwater structures, including piers, and boatlifts, should only be authorized after consideration of:

A. The effect such structures have on wildlife and aquatic life, water quality, scenic and aesthetic values, environmental sensitive resources, submerged lands, and submerged vegetation.

B. The effect such structures have on navigation, water circulation, recreational boating, sediment movement and littoral drift and shoreline access.

Policy 41: Overwater structures and mooring buoys should be designed to cause minimum interference with navigable waters and the public's safe use of the lake and shoreline.

Policy 42: Use of non-reflective materials in construction should be encouraged.

Policy 43: The proposed size of the structure and intensity of use or uses of any overwater structure should be compatible with the surrounding environment and land and water uses.

Policy 44: Lighting facilities should be limited to the minimum extent necessary to locate the pier or dock at night.

Regulations

Regulation 60: All new, reconstructed, repaired, or modified overwater structures must comply with Covington's Critical Area Regulations for the shoreline environment contained in Appendix A, meet the requirement for no net loss of ecological function, and comply with all other regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction.

Regulation 61: New piers and docks shall be allowed only for public access and water-dependent uses, which includes a structure associated with a single family residence provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the regulations contained in the this section.

Regulation 62: Overwater structures are prohibited in the Soos Creek and Jenkins Creek SMA.

Regulation 63: New piers and docks that are not accessory to single family residences shall be permitted only when intended for public use or when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.

Regulation 64: New residential development of more than two dwellings shall provide a joint use or community dock facilities, when feasible, rather than individual docks.

Regulation 65: Proposed overwater structures which are not an accessory use to residential development and are not joint-use structures must obtain a conditional use permit. A conditional use permit may be granted if:

A. The overwater structure does not create any potential adverse impacts to navigation or public safety;

B. The overwater structure does not cause environmental impacts that cannot be sufficiently mitigated; and

C. The overwater structure complies with all other conditional use criteria in WAC 173-27-160 as outlined in Chapter 8 of this Master Program.

Regulation 66: Proposed overwater structures which are not accessory to a residential use and are granted a conditional use permit, must comply with the regulations of this section for overwater structures which are accessory to single-family residential development.

Regulation 67: Proposed overwater structures which do not comply with the dimensional standards contained in this chapter may only be approved if they obtain a variance.

Regulation 68: No portion of the deck of a pier shall, during the course of the normal fluctuations of the elevation of the water body, protrude more than five (5) feet above the OHWM.

Regulation 69: No residential dwelling unit may be constructed on a pier.

Regulation 70: Piers and docks may be permitted accessory to a residential development provided:

A. The applicant has demonstrated to the satisfaction of the Shoreline Administrator that a shared or joint-use pier is not feasible.

B. No more than one (1) pier/dock for each single-family residence is permitted.

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

<u>Pier and Dock Length</u>

Regulation 71: All pier and dock lengths shall be minimized to the maximum extent feasible and comply with regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction. The proposed length must be the minimum necessary to support the intended use. The maximum waterward intrusion as measured from the ordinary high water mark of any portion of any pier or dock shall be limited to the following:

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

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

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

Regulation 72: The maximum square footage of ells and fingers is 120 feet.

<u>Pier and Dock Width</u>

Regulation 73: The maximum width of walkways and additional fingers shall be minimized to the maximum extent practical. All walkways must be fully grated and ells and floats must have a minimum 2-foot strip of grating down the center.

Regulation 74: Size. Surface coverage, including all floats, ramps and ells, shall be limited to the following:

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

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

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

Launching Rails and Ramps

Regulation 75: Launching rails may be permitted as a conditional use in the Shoreline Residential environment, and in the Pipe Lake Urban Conservancy environment when not accessory to residential structures, in lieu of a moorage pier or dock, provided the applicant shall demonstrate that the proposed length of the rail is the minimum necessary to safely launch the intended craft and comply with all regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction. Launching rails shall meet the following standards:

A. In no case shall the rail extend beyond the point where the water depth is ten (10) feet below the OHWM.

B. Launching rails shall be anchored to the ground with the use of tie-type construction.

C. No more than one (1) launching rail per single-family residence or duplex is permitted.

Regulation 76: Launching ramps may be permitted as a conditional use for recreational uses in the Pipe Lake Urban Conservancy Shoreline Environment provided the applicant shall demonstrate that the proposed length of the ramp is the minimum necessary to safely launch the intended craft and comply with all regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction. In no case shall the ramp extend beyond the point where the water depth is ten (10) feet below the OHWM.

Floats

Regulation 77: Recreational floats may be permitted, provided:

A. Area. The area of a recreational float shall be minimized to the maximum extent feasible and comply with regulations as stipulated by State and Federal agencies, local Tribes, or others that have jurisdiction. No recreational float shall have more than two hundred (200) square feet when associated with a public or private recreation land use.

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

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

D. Recreational floats shall have fully grated decks.

E. Retrieval lines shall not float at or near the surface of the water.

F. Height. Recreational floats must be built so that the deck surface is one (1) foot above the water's surface and they must have reflectors for nighttime visibility.

G. All float tubs shall be fully encapsulated.

Other Structures

Regulation 78: Boat houses are not permitted.

Regulation 79: Boatlifts, moorage piles and moorage covers are not permitted.

Regulation 80: All overwater structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe overwater structures shall be removed or repaired promptly by the owner.

Regulation 81: Piles, floats or other structures in direct contact with water shall not be treated or coated with herbicides, fungicides, paint, or pentachlorophenol.

Chapter 8 Administration

Introduction

There is hereby established an administrative system designed to assign responsibilities for implementation of the Master Program and shoreline permit review, to prescribe an orderly process by which to review proposals and permit applications, and to ensure that all persons affected by this Master Program are treated in a fair and equitable manner.

Program Administrator

Regulation 1: The City's Community Development Director or designee is hereby vested with:

A. Overall responsibility for administering the Shoreline Management Act and this Master Program as the Shoreline Administrator;

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

C. Authority to grant statements of exemption from shoreline substantial development permits in accordance with the policies and provisions of this Master Program.

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

A. Preparing and using application forms deemed essential for the administration of this Master Program.

B. Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this Master Program.

C. Making administrative decisions and interpretations of the policies and regulations of this Master Program and the Shoreline Management Act.

D. Collecting applicable fees, as established by the City in CMC 16.05.050.

E. Determining that all applications and necessary information and materials are provided.

F. Conducting field inspections, as necessary,

G. Reviewing, insofar as possible, all provided and related information deemed necessary for appropriate applications needs.

H. Determining if a shoreline substantial development permit, conditional use permit or variance permit is required.

I. Providing copies of permit applications to relevant staff and agencies for review and comment.

J. Conducting a thorough review and analysis of shoreline exemption applications; reviewing other staff and agency comments; making written findings and conclusions; and approving, approving with conditions, or denying such exemptions.

K. Conducting a thorough review and analysis of shoreline substantial development permit applications; reviewing other staff and agency comments; making written findings and conclusions; and approving, approving with conditions, or denying such permits.

L. Submitting shoreline variance and conditional use permit applications and written recommendations and findings on such permits to the City's Hearing Examiner for their consideration and action.

M. Submitting shoreline redesignation permit applications and written recommendations and findings on such permits to the City Council.

N. Assuring that proper notice is given to appropriate persons and the public for all hearings.

O. Providing technical and administrative assistance to the City's Hearing Examiner and City Council as required for effective and equitable implementation of this program and the Act.

P. Investigating, developing, and proposing amendments to this Master Program as deemed necessary to more effectively and equitably achieve its goals and policies.

Q. Seeking remedies for alleged violations of this program, the provisions of the Act and this Master Program or of conditions of any approved shoreline permit issued by the City of Covington.

R. Acting as the primary liaison between local and state agencies in the administration of the Shoreline Management Act and this Master Program.

S. Forwarding shoreline permits to the Department of Ecology for filing or action.

Shoreline Permits and Exemptions

Regulation 3: All proposed uses, activity and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, its implementing rules and this master program, whether or not a permit is required.

A substantial development shall not be undertaken within the jurisdiction of the SMA, Chapter 90.58 RCW, and this Shoreline Master Program unless a shoreline substantial development permit has been obtained and the appeal period has been completed and any

appeals have been resolved and/or the applicant has been given permission to proceed by the proper authority.

Regulation 4: Exemptions. Certain developments are exempt from the requirement to obtain a substantial development permit. Such developments still may require a variance or Conditional use permit, and all development within the shoreline is subject to the requirements of this SMP, 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 or as subsequently amended.

Permit Process

Regulation 5: Applicants shall apply for shoreline substantial development, variance and conditional use permits on forms provided by the City.

Regulation 6: Shoreline exemptions are a Type 1 process application, shoreline substantial development permits are a Type 2 process application, shoreline conditional use permits and shoreline variances are a Type 3 process application and shoreline environment redesignations are a Type 4 process application. All applications shall be processed in accordance with the applicable regulations of Chapter 14.30 and Chapter 14.35 SMC, as amended.

Regulation 7: completed application and documents for all shoreline permits shall be submitted to the Administrator for processing and review. Any deficiencies in the application or document shall be corrected by the applicant prior to further processing.

Regulation 8: Application fees in an amount established by ordinance shall be paid to the City of Covington at the time of the application.

Regulation 9: P Public Notice. A notice of application shall be issued for shoreline permit applications as provided for in CMC 14.35.040 and permit notice shall occur pursuant to Chapter 14.40, as amended, except that the public comment permit for a substantial development permit, variance or conditional use shall be no less than thirty (30) days. In addition, the City shall send a notice of application to the Muckleshoot Tribe Fisheries Division for all projects seeking approval under the SMP, including shoreline exemptions. The Administrator shall be responsible for delivering the legal notice containing the information required by WAC 173-14-070 to the newspaper to be published at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within the area in which the development is proposed. Advertising costs will be the responsibility of the applicant

Regulation 10: Application Review - Administrator Action:

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

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

Regulation 11: Hearing Examiner Review

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

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

Regulation 12: Washington State Department of Ecology Review

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

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

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

Regulation 13: Performance Bonds

To guarantee that conditions imposed in conjunction with permit approval are completed, the City may require the applicant to post a performance bond or other financial guarantee

in an amount satisfactory to the City. Any such bond or guarantee shall be from a reputable bonding company in a form acceptable to the City Attorney.

Regulation 14: Commencement of Activity

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

Regulation 15: Duration of Permits.

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

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

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

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

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

Revisions to Permits

Regulation 16: A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, the Master Program or the policies and provisions of chapter 90.58 RCW. Changes that are not substantive in effect do not require approval of a revision.

Regulation 17: When an applicant seeks to revise a substantial development, conditional use, or variance permit, the Shoreline Administrator shall request from the applicant detailed plans and text describing the proposed changes.

Regulation 18: If the Shoreline Administrator determines that the proposed changes are within the scope and intent of the original permit, and are consistent with this Master Program and the Act, the Shoreline Administrator may approve a revision.

A. "Within the scope and intent of the original permit" means the following:

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

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

3. The revised permit does not authorize development to exceed height, lot coverage, setback, or any other requirements of this Master Program except as authorized under a variance granted as the original permit or a part thereof.

4. Additional or revised landscaping is consistent with any conditions attached to the original permit and with this Master Program.

5. The use authorized pursuant to the original permit is not changed.

6. No adverse environmental impact will be caused by the project revision.

B. Revisions to permits may be authorized after original permit authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to authorization of changes which are consistent with this section and which would not require a permit for the development or change proposed under the terms of chapter 90.58 RCW and this Shoreline Master Program. If the proposed change constitutes substantial development then a new permit is required. Provided, this subsection shall not be used to extend the time requirements or to authorize substantial development beyond the time limits of the original permit.

C. If the sum of the revision and any previously approved revisions under former WAC 173-14-064 or this section violate the provisions in subsection D of this section, the City shall require that the applicant apply for a new permit.

D. The revision approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as necessary to clearly indicate the authorized changes, and the final ruling on consistency with this section, shall be filed with Ecology. In addition, the Shoreline Administrator shall notify parties of record of their action.

E. If the revision to the original permit involves a conditional use or variance, the Shoreline Administrator shall submit the revision to Ecology for Ecology's approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of this subsection. Ecology shall render and transmit to the Shoreline Administrator and the applicant its final decision within fifteen (15) days of the date of Ecology's receipt of the submittal from the Shoreline Administrator. The Shoreline Administrator shall notify parties of record of Ecology's final decision.

F. The revised permit is effective immediately upon final decision by the Shoreline Administrator or, when appropriate under subsection F of this section, upon final action by Ecology.

Variances

Regulation 19: Purpose. The purpose of a variance permit is strictly limited to granting relief to specific bulk dimensional, or performance standards set forth in the Master Program, and where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020. These provisions should be applied in a manner which, while protecting the environment, will assure that a person will be able to use his/her property in a fair and equitable manner.

Regulation 20: Application. An application for a Shoreline variance shall be submitted on a form provided by the City accompanied by maps, completed environmental checklist, applicable fees, and any other information specified in this Master Program or requested by the Administrator. An applicant for a substantial development permit who wishes to request a variance shall submit the variance application and the substantial development permit application simultaneously.

Regulation 21: Criteria for Granting Variances. Shoreline variance permits may be authorized, provided the applicant can demonstrate consistency with the variance criteria identified below.

A. Variance permits for development that will be located landward of the ordinary high water mark and landward of any wetland may be authorized provided the applicant can demonstrate consistency with the following variance criteria:

i. That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes, or significantly interferes with, reasonable use of the property.

ii. 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 Master Program and not, for example, from deed restrictions or the applicant's own actions.

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

iv. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.

v. That the variance requested is the minimum necessary to afford relief.

vi. That the public interest will suffer no substantial detrimental effect.

B. Variance permits for development and/or uses that will be located waterward of the ordinary high water mark or within any wetland may be authorized provided the applicant can demonstrate all of the following:

i. That the strict application of the bulk, dimensional, or performance standards set forth in the Master Program precludes all reasonable use of the property.

ii. That the proposal is consistent with the criteria established under Subsection A above.

iii. That the public rights of navigation and use of the shorelines will not be adversely affected.

Regulation 22: In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.

Regulation 23: Variances from the use regulations of the Master Program are prohibited.

Conditional Use Permits

Regulation 24: Conditional Uses. The purpose of a conditional use permit is to provide a system within the Master Program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City of Covington or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Act and the Master Program. Uses that are specifically prohibited by this Master Program may not be authorized with the approval of a conditional use permit.

Regulation 25: Criteria for Granting Shoreline Conditional Use Permits. Uses which are classified or set forth as conditional uses in the Master Program may be authorized, provided the applicant demonstrate all of the following conditional use criteria as listed in WAC 173-27-160:

A. That the proposed use is consistent with the policies of RCW 90.58.020 and the Master Program;

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

C. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this Master Program;

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

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

Regulation 26: In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

Regulation 27: Other uses which are not classified or set forth in this Master Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the Master Program.

Regulation 28: Uses which are specifically prohibited by the Master Program may not be authorized.

Local Appeals

Regulation 29: Any decision made by the Administrator on an exemption, Master Program policy or regulation interpretation, permit revision, or other action within the responsibility of the Administrator, may be appealed by the applicant, private or public organization, or individual to the Hearing Examiner within fourteen (14) calendar days following the issuance

of a written decision by the Administrator, or otherwise becomes effective. Such appeals shall be initiated by filing with the Administrator a notice of appeal setting forth the action being appealed and the principal points upon which the appeal is based, together with a filing fee as prescribed by ordinance.

Appeal to the State Shoreline Hearings Board

Regulation 30: Any person aggrieved by the granting or denying of a substantial development permit, variance, or conditional use permit, the upholding of an exemption appeal, or by the rescinding of a permit pursuant to the provisions of this Master Program, may seek review from the State of Washington Shorelines Hearing Board by filing a request for the same within twenty-one (21) days of the date of filing as defined in RCW 90.58.140(6)and by concurrently filing copies of such request with the Department of Ecology and the Attorney General's office. State Hearings Board regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC. A copy of such appeal notice shall also be filed with the City of Covington Shoreline Administrator.

Nonconforming Use and Development Standards

Regulation 31: "Nonconforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the Act or this Master Program, or amendments thereto, but which does not conform to present regulations or standards of this Master Program. In such cases, the following standards shall apply:

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

B. Uses and developments that were legally established and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances upon approval of a conditional use permit.

C. A use which is listed as a conditional use, but which existed prior to adoption of the Master Program or any relevant amendment and for which a conditional use permit has not been obtained, shall be considered a nonconforming use. A use which is listed as a conditional use, but which existed prior to the applicability of the Master Program to the site and for which a conditional use permit has not been obtained, shall be considered a nonconforming use.

D. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

E. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:

1. No reasonable alternative conforming use is practical; and

2. The proposed use will be at least as consistent with the policies and provisions of the act and the master program and as compatible with the uses in the area as the preexisting use.

3. In addition such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the Master Program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

F. A nonconforming structure which is moved any distance must be brought into conformance with the Master Program and the Act.

G. If a nonconforming development is damaged to an extent not exceeding seventy-five (75) percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance;

H. If a nonconforming use is discontinued for twelve (12) consecutive months or for twelve (12) months during any two (2)-year period, the nonconforming rights shall expire and any subsequent use shall be conforming; it shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire. A use authorized pursuant to subsection 5 of this section shall be considered a conforming use for purposes of this section;

Regulation 32: An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established prior to the effective date of the Act or the Master Program, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the Master Program and the Act.

Enforcement and Penalties

Regulation 33: The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The

existence or degree of bad faith of the persons subject to the enforcement action, benefits that accrue to the violator, and the cost of obtaining compliance may also be considered.

Regulation 34: Enforcement: All provisions of the Master Program shall be enforced by the Shoreline Administrator and/or his/her designated representatives. For such purposes, the Shoreline Administrator or his/her duly authorized representative shall have the power of a police officer.

Regulation 35: Penalty: Any person found to have willfully engaged in activities on the City's shorelines in violation of the Shoreline Management Act of 1971 or in violation of the City's Master Program, rules or regulations adopted pursuant thereto, is guilty of a gross misdemeanor, and shall be subject to the penalty provisions of the Covington Municipal Code (civil citation penalties and criminal penalties).

Regulation 36: Violator's Liability: Any person subject to the regulatory program of the Master Program who violates any provision of the Master Program or permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The Attorney General or Covington attorney shall bring suit for damages under this section on behalf of the State or City governments. If liability has been established for the cost of restoring an area affected by a violation, the court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorneys' fees and costs of the suit to the prevailing party.

Master Program Review

Regulation 37: This Master Program shall be periodically reviewed and amendments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with the requirements of WAC 173-26 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

Amendments to the Master Program

Regulation 38: Any of the provisions of this Master Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Any amendments shall also be subject to the procedures in CMC Chapter 14.25. Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Department of Ecology.

Severability

Regulation 39: If any provisions of this Master Program, or its application to any person or legal entity or parcel of land or circumstances, are held invalid, the remainder of the Master Program, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected.

Conflict of Provisions

Regulation 40: Should a conflict occur between the provisions of this SMP or between this SMP and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within the City, the requirement which most supports the provisions of 90.58.020 shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this SMP.

Appendix A. Covington Critical Area Regulations for the Shoreline Area

Note: Code sections will be renumbered.

Sections:

XX.65.010 Purpose.
XX.65.020 Applicability.
XX.65.030 Appeals.
XX.65.040 Critical areas rules.
XX.65.050 Allowed alterations of critical areas.
XX.65.060 Agricultural activities development standards.
XX.65.090 Disclosure by applicant.
XX.65.100 Critical area review.
XX.65.110 Critical area report requirement.
XX.65.120 Avoiding impacts to critical areas.
XX.65.130 Mitigation and monitoring.
XX.65.135 Off-site mitigation.
XX.65.136 Resource mitigation reserve.
XX.65.140 Financial guarantees.
XX.65.150 Vegetation management plan.
XX.65.160 Critical area markers and signs.
XX.65.170 Notice on critical areas.
XX.65.180 Critical area tracts and designations on site plans.
XX.65.190 Alteration.
XX.65.200 Building setbacks.
XX.65.220 Erosion hazard areas – Development standards and permitted alterations.
XX.65.230 Flood hazard areas – Components.
XX.65.240 Flood fringe development standards and alterations.
XX.65.250 Zero-rise floodway development standards and alterations.
XX.65.260 FEMA floodway development standards and alterations.
XX.65.270 Flood hazard areas certification by engineer or surveyor.
XX.65.275 Channel migration zones – Development standards and alterations.
XX.65.280 Landslide hazard areas – Development standards and alterations.
XX.65.310 Steep slope hazard areas – Development standards and alterations.
XX.65.311 Critical aquifer recharge areas – Maps adopted.
XX.65.312 Critical aquifer recharge areas – Reclassification or declassification.
XX.65.313 Critical aquifer recharge areas – Categories.
XX.65.314 Critical aquifer recharge areas.
XX.65.315 Critical aquifer recharge areas – Development regulations.
XX.65.316 Critical aquifer recharge areas – Evaluation and implementation.
XX.65.319 Wetlands – Categories.
XX.65.320 Wetlands – Buffers.
XX.65.340 Wetlands – Specific mitigation requirements.

XX.65.345 Wetlands – Specific mitigation requirements – Wetland mitigation banking.
XX.65.350 Wetlands – Limited exemption.
XX.65.355 Aquatic areas – Water types.
XX.65.356 Aquatic areas – Buffers.
XX.65.360 Aquatic areas – Development standards and alterations.
XX.65.370 Streams – Permitted alterations.
XX.65.380 Aquatic areas – Specific mitigation requirements.
XX.65.381 Wildlife habitat conservation areas – Development standards.
XX.65.382 Wildlife habitat conservation areas – Modification.
XX.65.383 Wildlife habitat network – Applicability.
XX.65.384 Wildlife habitat network – Development standards and alterations.
XX.65.385 Wildlife habitat conservation area and wildlife network – Specific mitigation requirements.
XX.65.390 Critical areas mitigation fee – Creation of fund.
XX.65.400 Critical areas mitigation fee – Source of funds.
XX.65.410 Critical areas mitigation fee – Use of funds.
XX.65.420 Critical areas mitigation fee – Investment of funds.
XX.65.430 Critical area designation.

18.65.010 Purpose.

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

(1) Establishing development and alteration standards to protect functions and values of critical areas;

(2) Protecting members of the general public and public resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, seismic and volcanic events, soil subsidence or steep slope failures;

(3) Protecting unique, fragile and valuable elements of the environment including, but not limited to, fish and wildlife and their habitats and maintaining and promoting Citywide native biodiversity;

(4) Requiring mitigation of unavoidable impacts to critical areas, by regulating alterations in or near critical areas;

(5) Preventing cumulative adverse environmental impacts on water availability, water quality, ground water, wetlands and aquatic areas;

(6) Measuring the quantity and quality of wetland and aquatic area resources and preventing overall net loss of wetland and aquatic area functions;

(7) Protecting the public trust as to navigable waters, aquatic resources, and fish and wildlife and their habitat;

(8) Meeting the requirements of the National Flood Insurance Program and maintaining the City of Covington as an eligible community for Federal flood insurance benefits;

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

(10) Providing City officials with sufficient information to protect critical areas. (Ord. 14-05 § 5)

18.65.020 Applicability.

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

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

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

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

(5) This chapter applies to all forest practices over which the City has jurisdiction under Chapter 76.09 RCW and WAC Title 222. (Ord. 14-05 § 5)

(6) If provisions of the Critical Areas Regulations and other parts of the master program conflict, the provisions most representative of the policies found in RCW 90.58.020 shall apply, as determined by the City.

(7) Provisions of the Critical Areas Regulations that are not consistent with the Shoreline Management Act Chapter, 90.85 RCW, and supporting Washington Administrative Code chapters shall not apply in Shoreline jurisdiction.

(8) The provisions of Covington Critical Areas Regulations do not extend Shoreline Jurisdiction beyond the limits specified in this SMP. For regulations addressing critical area buffer areas that are outside Shoreline Jurisdiction, see Covington Critical Areas Regulations.

18.65.030 Appeals.

An applicant may appeal a decision to approve, condition or deny a development proposal based on this chapter according to and as part of the appeal procedure for the permit or approval involved. (Ord. 14-05 § 5)

18.65.040 Critical areas rules.

The City of Covington is authorized to adopt, in accordance with Chapter 2.75 CMC, such public rules and regulations as are necessary and appropriate to implement this chapter and to prepare and require the use of such forms as are necessary to its administration. (Ord. 14-05 § 5)

18.65.050 Allowed alterations of critical areas.

(1) Within the following four critical areas and their buffers all alterations are allowed if the alteration complies with the development standards, mitigation requirements and other applicable requirements established in this chapter:

(a) Critical aquifer recharge area,
(b) Erosion hazard area;
(c) Flood hazard area except in the severe channel migration hazard area; and
(d) Landslide hazard area under 40 percent slope;

(2) Within the following seven critical areas and their buffers only the alterations on the table in subsection (3) of this section are allowed if the alteration complies with conditions in subsection (4) of this section and the development standards, mitigation requirements and other applicable requirements established in this chapter:

(a) Severe channel migration hazard area;
(b) Landslide hazard area over 40 percent slope;
(c) Steep slope hazard area;
(d) Wetland;
(e) Aquatic area;
(f) Wildlife habitat conservation area; and
(g) Wildlife habitat network.

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

Activity	**Landslide Hazard Over 40% and Buffer**	**Steep Slope Hazard and Buffer**	**Wetland and Buffer**	**Aquatic Area and Buffer and Severe Channel Migration**	**Wildlife Area and Network**
KEY: Letter “A” in a cell means alteration is allowed. “Wildlife area and network” column applies to both wildlife habitat conservation area and wildlife habitat network.					
Construction of single detached dwelling unit			A 1		
Construction of nonresidential structure			A 2	A 2	A 2, 3
Maintenance or repair of existing structure	A 4	A	A	A	A3
Expansion or replacement of existing structure	A 4, 6	A 4, 6	A 1, 6, 7	A 5, 6, 7	A 3, 6

Interior remodeling	A	A	A	A	A
Construction of new dock or pier			A 8	A 8, 9	
Maintenance, repair or replacement of dock or pier			A 10, 11, 12	A 10, 11, 12	A 3
Grading					
Grading		A 13		A 14	
Construction of new slope stabilization	A 15	A 15	A 15	A 15	
Maintenance of existing slope stabilization	A 16	A 13	A 17	A 16, 17	A 3
Mineral extraction	A	A			
Clearing					
Clearing	A 18	A 18, 19	A 18, 20	A 14, 18, 20	
Cutting firewood		A 21	A 21	A 21	
Removal of brush			A 22	A 22	
Removal of noxious weeds or invasive vegetation	A 23	A 23	A 23	A 23	A 3, 23
Use of herbicide	A	A	A 23	A 24	A
Forest practices					
Nonconversion Class IV-G forest practice	A 25	A 25	A 25	A 25	A 25, 26
Class I, II, III, IV-S forest practice	A	A	A	A	A
Roads					
Construction of new public road right-of-way structure on unimproved right-of-way			A 27	A 9, 27	
Maintenance of public road right-of-way structure	A 16	A 16	A 16	A 16	A 16, 28
Expansion beyond public road right-of way structure	A	A	A 27	A 27	
Repair, replacement or modification within the roadway	A 16	A 16	A 16	A 16	A 16, 28
Construction of driveway or private access road			A 59	A 59	A 59
Construction of farm field access drive	A 29	A 29	A 29	A 29	A 29

Maintenance of driveway, private access road or farm field access drive	A	A	A 17	A 17	A 17, 28
Bridges or culverts					
Maintenance or repair of bridge or culvert	A 16, 17	A 16, 17	A 16, 17	A 16, 17	A 16, 17, 28
Replacement of bridge or culvert	A 16	A 16	A 16	A 16, 30	A 16, 28
Expansion of bridge or culvert	A	A	A 31	A 31	A 3
Utilities and other infrastructure					
Construction of new utility corridor or utility facility	A 32, 33	A 32, 33	A 32, 34	A 32, 34	A 28, 35
Maintenance, repair or replacement of utility corridor or utility facility	A 32, 33	A 37	A 37	A 37	A 37
Maintenance or repair of existing well	A 37	A 37	A 37	A 37	A 3, 37
Maintenance or repair of on-site sewage disposal system	A	A	A	A 37	A 3
Construction of new surface water conveyance system	A 33	A 33	A 38	A 32, 39	A 3
Maintenance, repair or replacement of existing surface water conveyance system	A 33	A 33	A 18, 32, 39	A 16, 40, 41	A 3, 37
Construction of new surface water flow control or surface water quality treatment facility			A 32	A 32	A 3, 32
Maintenance or repair of existing surface water flow control or surface water quality treatment facility	A 16	A 16	A 16	A 16	A 3
Construction of new flood protection facility			A 42	A 42	A 28, 42
Maintenance, repair or replacement of flood protection facility	A 33, 43	A 33, 43	A 33, 43	A 43	A 28, 43
Construction of new instream structure or instream work	A 16	A 16	A 16	A 16, 44, 45	
Maintenance or repair of existing instream structure	A 16	A	A	A	A 3
Recreation areas					
Construction of new trail	A 46	A 46	A 47	A 9, 47	
Maintenance of outdoor public park	A 48	A 48	A 48	A 48	A 3, 48

facility, trail or publicly improved recreation area					
Habitat and science projects					
Habitat restoration or enhancement project	A 49	A 49	A 49	A 49	A 3, 49
Scientific sampling for salmonids			A 50	A 50	A 10
Drilling and testing for critical areas report	A 51	A 51	A 51, 52	A 51, 52	A 3
Agriculture					
Horticulture activity including tilling, discing, planting, seeding, harvesting, preparing soil, rotating crops and related activity	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Grazing livestock	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Construction or maintenance of livestock manure storage facility			A 53, 54, 55	A 53, 54, 55, 56	A 53, 54
Construction or maintenance of livestock flood sanctuary			A	A 56	
Construction of agricultural drainage			A 57	A 57	A 57
Maintenance of agricultural drainage	A 58	A 58	A 53, 54, 58	A 53, 54, 58	A 53, 54, 58
Construction or maintenance of farm pond, fish pond or livestock watering pond	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Other					
Excavation of cemetery graves in established and approved cemetery	A	A	A	A	A
Maintenance of cemetery graves	A	A	A	A	A
Maintenance of lawn, landscaping or gardening for personal consumption	A 59	A 59	A 59	A 59	A 59
Maintenance of golf course	A 17	A 17	A 17	A 17	A 17

(4) The following alteration conditions apply to the table in subsection (3) of this section:

1. Limited to farm residences in grazed or tilled wet meadows and subject to the limitations of CMC 18.65.060.

2. Limited to nonresidential farm structures in grazed or tilled wet meadows or buffers of wetlands or aquatic areas where:

a. The site is predominantly used for the practice of agriculture;

b. The structure is in compliance with an approved farm management plan in accordance with Chapter 18.80 CMC;

c. The structure is either:

i. On or adjacent to existing nonresidential impervious surface areas, additional impervious surface area is not created waterward of any existing impervious surface areas, and the area was not used for crop production;

ii. Higher in elevation and no closer to the critical area than its existing position; or

iii. At a location away from existing impervious surface areas that is determined to be the optimum site in the farm management plan;

d. All best management practices associated with the structure specified in the farm management plan are installed and maintained;

e. Installation of fencing in accordance with Chapter 18.80 CMC does not require the development of a farm management plan if required best management practices are followed and the installation does not require clearing of critical areas or their buffers; and

f. In a severe channel migration hazard area portion of an aquatic buffer only if:

i. There is no feasible alternative location on-site;

ii. The structure is located where it is least subject to risk from channel migration;

iii. The structure is not used to house animals or store hazardous substances; and

iv. The total footprint of all accessory structures within the severe channel migration hazard area will not exceed the greater of 1,000 square feet or two percent of the severe channel migration hazard area on the site.

3. Allowed if no clearing, external construction or other disturbance in a wildlife habitat conservation area occurs during breeding seasons established under CMC 18.65.381.

4. Allowed for structures when:

a. The landslide hazard poses little or no risk of injury;

b. The risk of landsliding is low; and

c. There is not an expansion of the structure.

5. Within a severe channel migration hazard area allowed for:

a. Existing primary structures if:

i. There is not an increase of the footprint of any existing structure; and

ii. There is not a substantial improvement as defined in CMC 18.20.1266; and

b. Existing accessory structures if:

i. Additions to the footprint will not make the total footprint of all existing structures more than 1,000 square feet; and

ii. There is not an expansion of the footprint towards any source of channel migration hazard, unless the applicant demonstrates that the location is less subject to risk and has less impact on the critical area.

6. Allowed only in the buffer or building setback outside a severe channel migration hazard area if:

a. The expansion or replacement does not increase the footprint of a nonresidential structure;

b. The expansion or replacement does not increase the footprint of a dwelling unit by more than 1,000 square feet and the location of the expanded area has the least adverse impact on the critical area;

c. The structure was not established as the result of a variance, buffer averaging or reasonable use exception; and

d. To the maximum extent practical, the expansion or replacement is not located closer to the critical area or within relic of a channel that can be connected to an aquatic area.

7. Allowed upon another portion of an existing impervious surface outside a severe channel migration hazard area if:

a. The structure is not located closer to the critical area; and

b. The existing impervious surface within the critical area or buffer is not expanded.

8. Limited to seasonal floating docks or piers in a Category II, III or IV wetland or its buffer or along a lake shoreline or its buffer where:

a. The existing and zoned density of all properties abutting the entire lake shoreline averages three dwelling units per acre or more;

b. At least 75 percent of the lots abutting the shoreline or 75 percent of the lake frontage, whichever constitutes the most lake frontage, has been developed with dwelling units;

c. There is not any significant vegetation where the alteration is proposed and the loss of vegetation was not the result of any violation of law; and

d. The wetland or lake shoreline is not a salmonid spawning area.

9. Not allowed within a severe channel migration hazard area portion of an aquatic area buffer.

10. Allowed on Type N or O aquatic areas if:

a. Neither the width nor the length of the existing dock or pier is increased; and

b. Hazardous substances or toxic materials are not used.

11. Allowed, excluding submerged components, on Type S or F aquatic areas if:

a. There is not an expansion of width and length of the existing dock or pier;

b. Hazardous substances or toxic materials are not used; and

c. There is not an increase in shade for predator species.

12. Allowed on Type S or F aquatic areas if:

a. Hazardous substances or toxic materials are not used;

b. There is not an increase in shade for predator species; and

c. There is not an increase in the number of pilings or the overall width and length of the dock or pier and the existing deck surface area is reduced to the maximum extent practical in waters between three feet and 13 feet deep.

13. Limited to regrading and stabilizing of a slope formed as a result of a legal grading activity.

14. The following are allowed if conducted more than 165 feet from the ordinary high water mark in the rural area and 115 feet from the ordinary high water mark in the urban area:

a. Grading of up to 50 cubic yards on lot less than five acres; and

b. Clearing of up to 1,000 square feet or up to a cumulative 35 percent of the lot.

15. Only where erosion or landsliding threatens a structure, utility facility, roadway, driveway, public trails, aquatic area or wetland if, to the maximum extent practical, stabilization work does not disturb the slope and its vegetative cover and any associated critical areas. New stabilization structures for existing primary residential structures is allowed only where no alternatives, including relocation or reconstruction of existing structures), are feasible, and less expensive that the proposed stabilization measure, and then only if no net loss of ecological functions will result.

16. Allowed when performed by or at the direction of a government agency in accordance with regional road maintenance guidelines.

17. Allowed when not performed under the direction of a government agency only if:

a. The maintenance does not involve the use of herbicides, hazardous substances, sealants or other liquid oily substances in aquatic areas, wetlands or their buffers; and

b. When maintenance involves water used by salmonids:

i. The maintenance is in compliance with ditch standards in public rule; and

ii. The maintenance of culverts is limited to removal of sediment and debris from the culvert and its inlet, invert and outlet and the stabilization of the disturbed or damaged bank or channel immediately adjacent to the culvert and shall not involve the excavation of a new sediment trap adjacent to the inlet.

18. Allowed for the removal of hazard trees and vegetation as necessary for surveying or testing purposes.

19. The limited trimming and pruning of vegetation for the making and maintenance of views if the soils are not disturbed and the activity will not adversely affect the long-term stability of the slope, erosion or water quality.

20. Harvesting of plants and plant materials, such as plugs, stakes, seeds or fruits, for restoration and enhancement projects is allowed.

21. Cutting of up to one cord of firewood in any year is allowed if the buffer is five acres or larger and no trees are removed from within 150 feet of the wetland or channel edge, including side channels.

22. Allowed only in buffers for the purpose of enhancing tree growth in the area of removal if limited to the diameter of the tree canopy.

23. Allowed only if:

a. Removal is undertaken with hand labor unless otherwise prescribed by the King County Noxious Weed Control Board requires or authorizes the use of riding mowers or light mechanical cultivating equipment and herbicides or biological control methods;

b. The area is stabilized to avoid re-growth or regeneration of noxious weeds; and

c. The cleared area is revegetated with native or noninvasive vegetation and stabilized against erosion.

24. Allowed for the control of invasive vegetation if:

a. Part of a restoration project;

b. The herbicide is a State and Federally approved registered aquatic formulation; and

c. For infestations over 10,000 square feet, the herbicide is applied by a licensed aquatic herbicide applicator.

25. Only if in accordance with Chapter 76.09 RCW and Title 222 WAC and:

a. A long-term management plan is approved for the site by the City; and

b. The property owner provides a notice of intent in accordance with RCW 76.09.060 that the site will not be converted to non-forestry uses within six years.

26. Only if in compliance with published Washington State Department of Fish and Wildlife and Washington State Department of Natural Resources Management standards for the species. If there are no published Washington State standards, only if in compliance with management standards determined by the Director to be consistent with best available science.

27. Allowed only if:

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

b. The corridor is not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the State or Federal government unless the Department determines that there is no other feasible crossing site.

c. The corridor width is minimized to the maximum extent practical;

d. The construction occurs during approved periods for instream work; and

e. The corridor will not change or diminish the overall aquatic area flow peaks, duration or volume or the flood storage capacity.

28. To the maximum extent practical, during breeding season established under CMC 18.65.381, land clearing machinery such as bulldozers, graders or other heavy equipment are not operated within a wildlife habitat conservation area.

29. Only if in compliance with a farm management plan in accordance with Chapter 18.80 CMC.

30. Allowed only if:

a. The replacement is made fish passable in accordance with Washington State Department of Fish and Wildlife Habitat and Lands Environmental Engineering Division's Fish Passage Design Manual or with the National Marine and Fisheries Services Guidelines for Salmonid Passage at Stream Crossings for Federally listed salmonid species; and

b. The site is restored with appropriate native vegetation.

31. Allowed if necessary to bring the bridge or culvert up to current standards and if:

a. There is not another feasible alternative available with less impact on the aquatic area and its buffer; and

b. To the maximum extent practical, the bridge or culvert is located to minimize impacts to the aquatic area and its buffers.

32. Allowed in an existing roadway if conducted consistent with the adopted street maintenance guidelines.

33. Allowed outside the roadway if:

a. The alterations will not subject the critical area to an increased risk of landslide or erosion;

b. Vegetation removal is the minimum necessary to locate the utility or construct the corridor; and

c. Significant risk of personal injury is eliminated or minimized in the landslide hazard area.

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

a. There is no alternative location with less adverse impact on the critical area and its buffer;

b. New utility corridors meet all of the following to the maximum extent practical:

i. Are not located over habitat used for salmonid rearing or spawning or by a species listed as endangered or threatened by the State or Federal government unless the Department determines that there is no other feasible crossing site;

ii. The mean annual flow rate is less than 20 cubic feet per second; and

iii. Paralleling the channel or following a down-valley route near the channel is avoided;

c. To the maximum extent practical utility corridors are located so that:

i. The width is the minimized;

ii. The removal of trees greater than 12 inches diameter at breast height is minimized;

iii. An additional, contiguous and undisturbed critical area buffer, equal in area to the disturbed critical area buffer area including any allowed maintenance roads, is provided to protect the critical area;

d. To the maximum extent practical, access for maintenance is at limited access points into the critical area buffer rather than by a parallel maintenance road. If a parallel maintenance road is necessary the following standards are met:

i. To the maximum extent practical the width of the maintenance road is minimized and in no event greater than 15 feet; and

ii. The location of the maintenance road is contiguous to the utility corridor on the side of the utility corridor farthest from the critical area;

e. The utility corridor or utility facility will not change or diminish the overall critical area hydrology or flood storage capacity;

f. The construction occurs during approved periods for instream work;

g. The utility corridor serves multiple purposes and properties to the maximum extent practical;

h. Bridges or other construction techniques that do not disturb the critical areas are used to the maximum extent practical;

i. Bored crossing meet the following criteria:

i. Are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood; and

ii. The channel is crossed close to perpendicular and never more than 30 degrees from perpendicular;

j. Bridge piers or abutments for bridge crossing are not placed within the FEMA floodway or the ordinary high water mark;

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

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

35. Allowed only for new utility facilities in existing utility corridors.

36. Allowed for private individual utility service connections on site or to public utilities or utilities regulated by the Washington Utilities and Transportation Commission if the disturbed area is not expanded and no hazardous substances, pesticides or fertilizers are applied.

37. Allowed if the disturbed area is not expanded, clearing is limited to the maximum extent practical and no hazardous substances, pesticides or fertilizers are applied.

38. Allowed if conveying the surface water into the wetland buffer and discharging into the wetland buffer or at the wetland edge has less adverse impact upon the wetland or wetland buffer than if the surface water were discharged at the buffer's edge and allowed to naturally drain through the buffer.

39. Allowed if constructed only with vegetation.

40. Allowed for an open, vegetated storm water management conveyance system and outfall structure that simulates natural conditions if:

a. Fish habitat features necessary for feeding, cover and reproduction are included when appropriate;

b. Vegetation is maintained and added adjacent to all open channels and ponds, if necessary to prevent erosion, filter out sediments or shade the water; and

c. Bioengineering techniques are used to the maximum extent practical.

41. Allowed for a closed, tightlined conveyance system and outfall structure if:

a. Necessary to avoid erosion of slopes; and

b. Bioengineering techniques are used to the maximum extent practical.

42. Allowed in a severe channel migration hazard area portion of an aquatic area buffer where demonstrated necessary to address or prevent bank erosion only:

a. If consistent with King County's Guidelines for Bank Stabilization Projects (King County Surface Water Management), and any updates, and if bioengineering techniques are used to the maximum extent practical and structural methods are only used when non-structural methods are infeasible and mitigation is accomplished-; and

b. To prevent bank erosion for the protection of:

i. Public roadways;

ii. Sole access routes in existence before February 16, 1995; or

iii. New primary dwelling units, accessory dwelling units or accessory living quarters and residential accessory structures located outside the severe channel migration hazard area if:

A. The site is adjacent to or abutted by properties on both sides containing buildings or sole access routes protected by legal bank stabilization in existence before February 16, 1995. The buildings, sole access routes or bank stabilization must be located no more than 600 feet apart as measured parallel to the migrating channel; and

B. The new primary dwelling units, accessory dwelling units, accessory living quarters or residential accessory structures are located no closer to the aquatic area than existing primary dwelling units, accessory dwelling units, accessory living quarters or residential accessory structures on abutting or adjacent properties.

43. Applies to lawfully established existing structures if:

a. Maintained by a public agency;

b. The height of the facility is not increased;

c. The linear length of the affected edge of the facility is not increased;

d. The footprint of the facility is not expanded waterward;

e. Consistent with King County's Guidelines for Bank Stabilization Projects (King County Surface Water Management) and bioengineering techniques are used to the maximum extent practical; and

f. The site is restored with appropriate native vegetation.

44. Allowed in Type N and O aquatic areas if done in least impacting way at least impacting time of year, in conformance with applicable best management practices, and all affected instream and buffer features are restored.

45. Allowed in a Type S or F water when such work is:

a. Included as part of a project to evaluate, restore or improve habitat; and

b. Sponsored by a public agency that has natural resource management as a function or by a Federally recognized tribe.

46. Allowed as long as the trail is not constructed of impervious surfaces that will contribute to surface water run-off, unless the construction is necessary for soil stabilization or soil erosion prevention or unless the trail system is specifically designed and intended to be accessible to handicapped persons.

47. Allowed as far landward as feasible in the buffer if:

a. The trail surface is not made of impervious materials, except that public multi-purpose trails may be made of impervious materials if the trail surface materials meet the storm water requirements; and

b. To the maximum extent practical, buffers are expanded equal to the width of the trail corridor including disturbed areas.

48. Only if the maintenance:

a. Does not involve the use of herbicides or other hazardous substances except for the removal of noxious weeds or invasive vegetation;

b. When salmonids are present, the maintenance is in compliance with ditch standards in public rule; and

c. Does not involve any expansion of the roadway, lawn, landscaping, ditch, culvert, engineered slope or other improved area being maintained.

49. Limited to:

a. Projects sponsored by a public agency that has natural resource management as a primary function or by a Federally recognized tribe; or

b. Restoration and enhancement plans prepared by a qualified biologist or a landscape architect in conformance with Chapter 18.96 RCW.

50. Allowed in accordance with a scientific sampling permit issued by Washington State Department of Fish and Wildlife or an incidental take permit issued under Section 10 of the Endangered Species Act.

51. Allowed for the limited clearing and grading needed to prepare critical area reports.

52. The following are allowed if associated spoils are contained:

a. Data collection and research if carried out to the maximum extent practical by non-mechanical or hand-held equipment;

b. Survey monument placement;

c. Site exploration and gauge installation if performed in accordance with State-approved sampling protocols and accomplished to the maximum extent practical by hand-held equipment and; or similar work associated with an incidental take permit issued under Section 10 or consultation under Section 7 of the Endangered Species Act.

53. Limited to activities in continuous existence since December 1, 2005, with no expansion within the critical area or critical area buffer. “Continuous existence” includes cyclical operations and managed periods of soil restoration, enhancement or other fallow states associated with these horticultural and agricultural activities.

54. Allowed for expansion of existing or new agricultural activities where:

a. The site is predominantly involved in the practice of agriculture;

b. There is no expansion into an area that:

i. Has been cleared under a Class I, II, III or IV-S forest practice permit; or

ii. Is more than 10,000 square feet with tree cover at a uniform density more than 90 trees per acre and with the predominant mainstream diameter of the trees at least four inches diameter at breast height, not including areas that are actively managed as agricultural crops for pulpwood, Christmas trees or ornamental nursery stock;

c. The activities are in compliance with an approved farm management plan in accordance with Chapter 18.80 CMC; and

d. All best management practices associated with the activities specified in the farm management plan are installed and maintained.

55. Only allowed in grazed or tilled wet meadows or their buffers if:

a. The facilities are designed to the standards of an approved farm management plan in accordance with Chapter 18.80 CMC or an approved livestock management plan in accordance with Chapter 18.80 CMC;

b. There is not a feasible alternative location available on the site; and

c. The facilities are located close to the outside edge of the buffer to the maximum extent practical.

56. Allowed in a severe channel migration hazard area portion of an aquatic area buffer if:

a. The facilities are designed to the standards in an approved farm management plan in accordance with Chapter 18.80 CMC;

b. There is not a feasible alternative location available on the site; and

c. The structure is located where it is least subject to risk from channel migration.

57. Allowed for new agricultural drainage in compliance with an approved farm management plan in accordance with Chapter 18.80 CMC and all best management practices associated with the activities specified in the farm management plan are installed and maintained.

58. If the agricultural drainage is used by salmonids, maintenance shall be in compliance with an approved farm management plan in accordance with Chapter 18.80 CMC.

59. Allowed within existing landscaped areas or other previously disturbed areas. (Ord. 14-05 § 5)

18.65.060 Agricultural activities development standards.

(1) The alterations identified in Chapter 18.80 CMC for agricultural activities are allowed to expand within the buffers of wetlands, aquatic areas and wildlife habitat conservation areas when the site is currently engaged in an agricultural activity and the alteration is in compliance with an approved farm management plan in accordance with this section or, for livestock activities, a farm management plan in accordance with Chapter 18.80 CMC.

(2) This section does not modify any requirement that the property owner obtain permits for activities covered by the farm management plan.

(3) The Director or his designee shall serve as the single point of contact for City in providing information on farm management plans for purposes of this title. The Director shall adopt a public rule governing the development of farm management plans. The rule may provide for different types of farms management plans related to different kinds of agricultural activities, including, but not limited to, the best management practices for dairy nutrient management, livestock management, horticulture management, site development and agricultural drainage.

(4) A property owner or applicant seeking to use the process to allow alterations in critical area buffers shall develop a farm management plan based on the following goals, which are listed in order of priority:

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

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

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

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

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

(5) The property owner or applicant may develop the farm management plan as part of a program offered or approved by the City. The plan shall include, but is not limited to, the following elements:

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

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

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

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

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

(f) Documentation of compliance with flood compensatory storage and flood conveyance in accordance with CMC 18.65.240.

(6) A farm management plan is not effective until approved by the Director. Before approval, the City of Covington shall conduct a site inspection, to verify that the conditions identified in the plan are in place and that the plan is reasonably likely to accomplish the goals in this section. (Ord. 14-05 § 5)

18.65.070 Shoreline Variance Required

Any alteration of critical areas, critical area setbacks, critical area buffers, or other specific bulk, dimensional, or performance standards set forth in the Master Program, other than those allowed explicitly in the standards themselves, shall require a Shoreline Variance as described in Chapter 6 of the SMP based on the variance criteria listed therein and in WAC 173-27-170.

18.65.080 Disclosure by applicant.

If a development proposal site contains or is within a critical area, the applicant shall submit an affidavit which declares whether the applicant has knowledge of any illegal alteration to any or all critical areas on the development proposal site and whether the applicant previously has been found in violation of this chapter, pursuant to Chapter 1.30 CMC. If the applicant previously has been found in violation, the applicant shall declare whether the violation has been corrected to the satisfaction of the City of Covington. (Ord. 10-07 § 11; Ord. 14-05 § 5)

18.65.090 Critical area review.

(1) Before any clearing, grading or site preparation, the Department shall perform a critical area review for any City development proposal permit application or other request for permission to alter a site. The applicant shall pay a critical area review fee as set forth in the current fee resolution. The Department shall determine whether there is:

(a) A critical area on the development proposal site;

(b) An active breeding site of a protected species on the development proposal site; or

(c) A critical area or active breeding site of a protected species that has been mapped, identified within 300 feet of the applicant's property or that is visible from the boundaries of the site.

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

(a) There has been an accurate identification of all critical areas;

(b) An alteration will occur to a critical area or a critical area buffer;

(c) The development proposal is consistent with this chapter;

(d) The sequence outlined in this chapter has been followed to avoid impacts to critical areas and critical area buffers; and

(e) Mitigation to compensate for adverse impacts to critical areas is required and whether the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the general public health, safety and welfare, consistent with the goals, purposes, objectives and requirements of this chapter.

(3) If a development proposal does not involve any site disturbance, clearing, or grading and only requires a permit or approval under Chapter 18.45 CMC, critical area review is not required, unless the development proposal is located within a:

(a) Flood hazard area;

(b) Critical aquifer recharge area; or

(c) Landslide hazard area, and the proposed development will cause additional loads on the foundation, such as by expanding the habitable square footage of the structure or by adding or changing structural features that change the land bearing characteristics of the structure. (Ord. 20-07 § 126; Ord. 14-05 § 5)

18.65.100 Critical area report requirement.

(1) An applicant for a development proposal that requires critical area review under CMC 18.65.090 shall submit a critical area report at a level determined by the Department to adequately evaluate the proposal and all probable impacts.

(2) A level one critical area report is required for development proposals requiring a critical area review and includes the following:

(a) A valid critical area designation listed in CMC 18.65.050;

(b) A critical area delineation performed by an expert;

(c) A critical area review performed for the same site or portion of the site or another permit approval process within the prior five years;

(d) An approved farm management plan in accordance with Chapter 18.80 CMC, or for wetlands and aquatic areas that are streams, a farm plan approved after January 1, 1993, in accordance with KCC Title 21A.30;

(e) An approved rural stewardship site plan in accordance with King County Code; or

(f) A forest stewardship site plan approved after the effective date of this section; and

(g) A basic site checklist for each critical area in a form specified by the Department that includes;

(i) A site plan indicating the location of each critical area on or adjacent to the site and the approximate buffer, if any;

(ii) Topographical features if relevant;

(iii) General vegetation types and potential habitat or breeding sites; and

(iv) Any information related to the classification, type or category of the critical area.

(3) City of Covington may require a level two critical area report in a form specified by the Department when:

(a) A description, delineation or explanation of the attributes of the critical area beyond the information provided by a level one checklist is necessary to determine potential impacts or risks and appropriate mitigation; or

(b) The functions of all or portions of a critical area or critical area buffer are degraded and appropriate mitigation can be determined without intensive analysis.

(4) The Department may require a level three critical area report in a form specified by the Department when:

(a) The functions of all or portions of a critical area or critical area buffer are intact and an analysis of the potential impacts of the proposed development or alteration is necessary to determine appropriate mitigation measures and to decide if the alteration should occur as proposed; or

(b) There is a potential risk to life or property from the development proposal or alteration or to the development proposal or alteration because of the hazards posed by cumulative effects to the critical area.

(5) The Department may require a level four critical area report in a form specified by the Department when:

(a) A quantitative analysis is needed to determine potential impacts and mitigation measures;

(b) An alteration exception is proposed in accordance with CMC 18.65.070; or

(c) An analysis of cumulative effects is required under the Washington State Environmental Policy Act or other State or Federal law.

(6) The applicant may combine a critical area report with any critical area studies required by other laws and regulations.

(7) If the development proposal will affect only a part of the development proposal site, the Department may limit the scope of the required critical area report to include only that part of the site that is affected by the development proposal. (Ord. 14-05 § 5)

18.65.110 Avoiding impacts to critical areas.

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

(a) Avoiding the impact or hazard by not taking a certain action;

(b) Minimizing the impact or hazard by:

(i) Limiting the degree or magnitude of the action with appropriate technology; or

(ii) Taking affirmative steps, such as project redesign, relocation or timing;

(c) Rectifying the impact to critical areas by repairing, rehabilitating or restoring the affected critical area or its buffer;

(d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

(e) Reducing or eliminating the impact or hazard over time by preservation or maintenance operations during the life of the development proposal or alteration;

(f) Compensating for the adverse impact by enhancing critical areas and their buffers or creating substitute critical areas and their buffers; and

(g) Monitoring the impact, hazard or success of required mitigation and taking remedial action.

(2) The specific mitigation requirements of this chapter for each critical area apply when compensation for adverse impacts is required by the sequence in subsection (1) of this section. (Ord. 14-05 § 5)

18.65.120 Mitigation and monitoring.

(1) If mitigation is required under this chapter to compensate for adverse impact, unless otherwise provided, an applicant shall:

(a) Mitigate adverse impacts to:

(i) Critical areas and their buffers; and

(ii) The development proposal as a result of the proposed alterations on or near the critical areas; and

(b) Monitor the performance of any required mitigation.

(2) The Department shall not approve a development proposal until mitigation and monitoring plans are in place to mitigate for alterations to critical areas and buffers.

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

(a) An analysis of potential impacts;

(b) A mitigation plan that meets the specific mitigation requirements in this chapter for each critical area impacted; and

(c) A monitoring plan that includes:

(i) A demonstration of compliance with this title;

(ii) A contingency plan in the event of a failure of mitigation or of unforeseen impacts if:

(A) The Department determines that failure of the mitigation would result in a significant impact on the critical area or buffer; or

(B) The mitigation involves the creation of a wetland; and

(C) A monitoring schedule that may extend throughout the impact of the activity or, for hazard areas, for as long as the hazard exists.

(4) Mitigation shall not be implemented until after the City approves the mitigation and monitoring plan. The applicant shall notify the City when mitigation is installed and monitoring is commenced and shall provide City with reasonable access to the mitigation for the purpose of inspection during any monitoring period.

(5) If monitoring reveals a significant deviation from predicted impact or a failure of mitigation, the applicant shall implement an approved contingency plan. The contingency plan constitutes new mitigation and is subject to all mitigation including a monitoring plan and financial guarantee requirements. (Ord. 14-05 § 5)

18.65.130 Off-site mitigation.

(1) To the maximum extent practical, an applicant shall mitigate adverse impacts to a wetland, aquatic area, wildlife habitat conservation area or wildlife habitat network on or contiguous to the development site. The Director may approve mitigation that is off the development site if an applicant demonstrates that:

(a) It is not practical to mitigate on or contiguous to the development proposal site; and

(b) The off-site mitigation will achieve equivalent or greater hydrological, water quality and wetland or aquatic area habitat functions.

(2) When off-site mitigation is authorized, the Director shall give priority to location within the same drainage sub-basin as the development proposal site that meet the following:

(a) Mitigation banking sites and resource mitigation reserves as authorized by this chapter;

(b) Private mitigation sites that are established in compliance with the requirements of this chapter and approved by the Department; and

(c) Public mitigation sites that have been ranked in a process that has been supported by ecological assessments, including wetland and aquatic areas established as priorities for mitigation in City of Covington sub-basin plans or other WRIA No. 9 watershed plans.

(3) The Director may require documentation that the mitigation site has been permanently preserved from future development or alteration that would be inconsistent with the function of the mitigation. The documentation may include, but need not be limited to, a conservation easement, transfer of clearing credits or other agreement between the applicant and owner of the mitigation site. The City of Covington may enter into agreements or become a party to any easement or other agreement necessary to ensure that the site continues to exist in its mitigated condition.

(4) The Director shall maintain a list of sites available for use for off-site mitigation projects.

(5) The City of Covington may develop a program to allow the payment of a fee in lieu of providing mitigation on a development site. The program should address:

(a) When the payment of a fee is allowed considering the availability of a site in geographic proximity with comparable hydrologic and biological functions and potential for future habitat fragmentation and degradation; and

(b) The use of the fees for mitigation on public or private sites that have been ranked according to ecological criteria through one or more programs that have included a public process. (Ord. 14-05 § 5)

18.65.135 Resource mitigation reserve.

The Director may approve mitigation to compensate for the adverse impacts of a development proposal in advance of unavoidable adverse impacts to critical areas through the creation and approval of a resource mitigation reserve. The use of a resource mitigation reserve to compensate for unavoidable impacts to a critical area is not allowed in the agricultural production districts if the purpose is to compensate for development outside of the agricultural production districts. (Ord. 14-05 § 5)

18.65.140 Financial guarantees.

Financial guarantees shall be required consistent with the provisions of CMC Title 14 and this title.

(1) Financial guarantees for mitigation required pursuant to this chapter shall be sufficient to guarantee that all required mitigation measures will be completed no later than the time established by the City.

(2) Performance and maintenance guarantees shall also be required for restoration of a critical area or buffer not performed as part of a mitigation or maintenance plan except that no financial guarantee shall be required for minor stream restoration.

(3) For maintenance guarantees associated with mitigation, corrective work, restoration or enhancement, the financial guarantee shall be sufficient to cover the time and cost to guarantee satisfactory workmanship, materials and performance of structures and improvements required by this chapter and any monitoring of those structures and improvements required by approved plans and conditions.

(4) Public development proposals shall be relieved from having to comply with the provisions of this section if public funds have previously been committed for mitigation, maintenance, monitoring or restoration. (Ord. 20-07 §§ 86, 127; Ord. 14-05 § 5; Ord. 43-02 § 2. Partially from former 14.110.080)

18.65.150 Vegetation management plan.

(1) For all development proposals where preservation of existing vegetation is required by this chapter, a vegetation management plan shall be submitted and approved prior to issuance of the permit or other request for permission to proceed with an alteration.

(2) The vegetation management plan shall identify the proposed clearing limits for the project and any areas where vegetation in a sensitive area or its buffer is proposed to be disturbed.

(3) Where clearing includes cutting any merchantable stand of timber, as defined in WAC 222-16-010(28), the vegetation management plan shall include a description of proposed logging practices which demonstrates how all sensitive areas will be protected in accordance with the provisions of this chapter.

(4) Clearing limits as shown on the plan shall be marked in the field in a prominent and durable manner. Proposed methods of field marking shall be reviewed and approved by King County prior to any site alteration. Field marking shall remain in place until the certificate of occupancy or final project approval is granted.

(5) The vegetation management plan may be incorporated into a temporary erosion and sediment control plan or landscaping plan where either of these plans is required by other laws or regulations.

(6) Submittal requirements for vegetation management plans shall be set forth in administrative rules. (Ord. 14-05 § 5)

18.65.160 Critical area markers and signs.

(1) Development proposals shall include permanent survey stakes delineating the boundary between adjoining property and critical area tracts, using iron or concrete markers as established by current survey standards.

(2) The applicant shall identify the boundary between a critical area tract and contiguous land with permanent signs. City of Covington may require signs and fences to delineate and protect critical areas and critical area buffers that are not in critical area tracts. (Ord. 14-05 § 5)

18.65.170 Notice on critical areas.

(1) The owner of any property containing critical areas or buffers on which a development proposal is submitted or any property on which mitigation is established as a result of development, except a public right-of-way or the site of a permanent public facility, shall file a notice approved by King County with the Records and Elections Division and licensing services division.

The notice shall inform the public of the presence of critical areas or buffers or mitigation sites on the property, the application of this chapter to the property and the possible existence of limitations on actions in or affecting the critical areas or buffers or the fact that mitigation sites may exist.

(2) The applicant shall submit proof that the notice has been filed for public record before City of Covington approves any development proposal for the property or, in the case of subdivisions, short subdivisions and binding site plans, at or before recording of the subdivision, short subdivision or binding site plan. (Ord. 14-05 § 5)

18.65.180 Critical area tracts and designations on site plans.

(1) The applicant shall use critical area tracts to delineate and protect those critical areas and buffers listed below in development proposals for subdivisions, short subdivisions or binding site plans and shall record on all documents of title of record for all affected lots:

(a) All landslide hazard areas and buffers that are one acre or more in size;
(b) All steep slope hazard areas and buffers that are one acre or more in size;
(c) All wetlands and buffers; and
(d) All aquatic areas and buffers.

(2) Any required critical area tract shall be held in an undivided interest by each owner of a building lot within the development with this ownership interest passing with the ownership of the lot or shall be held by an incorporated homeowners' association or other legal entity that ensures the ownership, maintenance and protection of the tract.

(3) Site plans submitted as part of building permits, clearing and grading permits or other development permits shall include and delineate all flood hazard areas as determined by City in accordance with CMC 18.65.230, landslide and steep

slope hazard areas, aquatic areas and wetlands, buffers and building setbacks. If only a part of the development site has been mapped pursuant to CMC 18.65.110, the part of the site that has not been mapped shall be clearly identified and labeled on the site plans. The site plans shall be attached to the notice on title required by CMC 18.65.170. (Ord. 14-05 § 5)

18.65.190 Alteration.

Any human activity which results or is likely to result in an impact upon the existing condition of a sensitive area is an alteration which is subject to specific limitations as

specified for each sensitive area. Alterations include, but are not limited to, grading, filling, dredging, draining, channelizing, applying herbicides or pesticides or any hazardous substance, discharging pollutants except storm water, grazing domestic animals, paving, constructing, applying gravel, modifying for surface water management purposes, cutting, pruning, topping, trimming, relocating or removing vegetation or any other human activity which results or is likely to result in an impact to existent vegetation, hydrology, wildlife or wildlife habitat. Alterations do not include walking, fishing or any other passive recreation or other similar activities. (Ord. 14-05 § 5)

18.65.200 Building setbacks.

Unless otherwise provided, an applicant shall set buildings and other structures back a distance of 15 feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following are allowed in the building setback area:

(1) Landscaping;

(2) Uncovered decks lower than 30 inches height above existing grade;

(3) Building overhangs if the overhangs do not extend more than 18 inches into the setback area;

(4) Impervious ground surfaces, such as driveways and patios; but the improvements are required to meet any special drainage provisions specified in public rules adopted for the various critical areas; and

(5) Utility service connections as long as the excavation for installation avoids impacts to the buffer. (Ord. 14-05 § 5)

18.65.220 Erosion hazard areas – Development standards and permitted alterations.

(1) Clearing on an erosion hazard area is allowed only from April 1st to September 1st, except that:

(a) Up to 15,000 square feet may be cleared on any lot, subject to any other requirement for vegetation retention and subject to any clearing and grading permit required by Chapter 18.45 CMC; and

(b) Timber harvest may be allowed pursuant to an approved forest practice permit issued by the Washington Department of Natural Resources, or clearing of noxious weeds at any time.

(2) All development proposals on sites containing erosion hazard areas shall include a temporary erosion control plan consistent with this section and other laws and regulations prior to receiving approval. Specific requirements for such plans shall be set forth in administrative rules.

(3) All subdivisions, short subdivisions or binding site plans on sites with erosion hazard areas shall comply with the following additional requirements:

(a) Except as provided in this section, existing vegetation shall be retained on all lots until building permits are approved for development on individual lots;

(b) If any vegetation on the lots is damaged or removed during construction of the subdivision infrastructure, the applicant shall be required to submit a restoration plan

to City of Covington for review and approval. Following approval, the applicant shall be required to implement the plan;

(c) Clearing of vegetation on lots may be allowed without a separate clearing and grading permit if City of Covington determines that:

(i) Such clearing is a necessary part of a large-scale grading plan;

(ii) It is not feasible to perform such grading on an individual lot basis; and

(iii) Drainage from the graded area will meet water quality standards to be established by administrative rules.

(4) Where the City of Covington determines that erosion from a development site poses a significant risk of damage to downstream receiving waters, based either on the size of the project, the proximity to the receiving water or the sensitivity of the receiving water, the applicant shall be required to provide regular monitoring of surface water discharge from the site. If the project does not meet water quality standards established by law or administrative rules, the City may suspend further development work on the site until such standards are met.

(5) The use of hazardous substances, pesticides and fertilizers in erosion hazard areas may be prohibited by the City of Covington. (Ord. 14-05 § 5)

18.65.230 Flood hazard areas – Components.

(1) A flood hazard area consists of the following components:

(a) Floodplain;

(b) Zero-rise flood fringe;

(c) Zero-rise floodway;

(d) FEMA floodway; and

(e) Channel migration zones.

(2) The City of Covington shall delineate a flood hazard area after reviewing base flood elevations and flood hazard data for a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the “100-year flood.” The Director shall determine the base flood for existing conditions. If a basin plan or hydrologic study including projected flows under future developed conditions has been completed and approved by King County, the City of Covington shall use these future flow projections. Many flood hazard areas are mapped by FEMA in a scientific and engineering report entitled “The Flood Insurance Study for King County and Incorporated Areas.” When there are multiple sources of flood hazard data for floodplain boundaries, regulatory floodway boundaries, base flood elevations, or flood cross-sections, the Director may determine which data most accurately classifies and delineates the flood hazard area. The Director may utilize the following sources of flood hazard data for floodplain boundaries, regulatory floodway boundaries, base flood elevations or cross sections when determining a flood hazard area:

(a) Flood insurance rate maps;

(b) Flood insurance studies;

(c) Preliminary flood insurance rate maps;

(d) Preliminary flood insurance studies;

(e) Draft flood boundary work maps and associated technical reports;

(f) Critical area reports prepared in accordance with FEMA standards contained in 44 CFR Part 65 and consistent with the King County surface water design manual provisions for floodplain analysis;

(g) Letters of map amendments;

(h) Letters of map revisions;

(i) Channel migration zone maps and studies;

(j) Historical flood hazard information; and

(k) Wind and wave data provided by the United States Army Corps of Engineers.

(3) A number of channel migration zones are mapped by the County for portions of river systems. These channel migration zones and the criteria and process used to designate and classify channel migration zones are specified by public rule adopted by the Director. An applicant for a development proposal may submit a critical area report to the Department to determine channel migration zone boundaries or classify channel migration hazard areas on a specific property if there is an apparent discrepancy between the site-specific conditions or data and the adopted channel migration zone maps. (Ord. 14-05 § 5)

18.65.240 Flood fringe development standards and alterations.

The following standards apply to development proposals and alterations on sites within the zero-rise flood fringe:

(1) Development proposals and alterations shall not reduce the effective base flood storage volume of the floodplain. A development proposal shall provide compensatory storage if grading or other activity displaces any effective flood storage volume. Compensatory storage shall:

(a) Provide equivalent volume at equivalent elevations to that being displaced;

(b) Hydraulically connect to the source of flooding;

(c) Provide compensatory storage in the same construction season as when the displacement of flood storage volume occurs and before the flood season begins on September 30th for that year; and

(d) Occur on the site. The Director may approve equivalent compensatory storage off the site if legal arrangements, acceptable to the Department, are made to assure that the effective compensatory storage volume will be preserved over time;

(2) A structural engineer shall design and certify all elevated construction and submit the design to the City prior to construction;

(3) A civil engineer shall prepare a base flood depth and base flood velocity analysis and submit the analysis to the Department. Development proposals and alterations are not allowed if the base flood depth exceeds three feet or the base flood velocity exceeds three feet per second;

(4) Subdivisions, short subdivisions, and binding site plans shall meet the following requirements:

(a) New building lots shall include 5,000 square feet or more of buildable land outside the zero-rise floodway;

(b) All utilities and facilities such as sewer, gas, electrical and water systems are consistent with subsections (5), (6) and (9) of this section;

(c) A professional engineer shall prepare detailed base flood elevations in accordance with FEMA guidelines for all new lots;

(d) A development proposal shall provide adequate drainage in accordance with the King County surface water design manual to reduce exposure to flood damage; and

(e) The face of the recorded subdivision, short subdivision, or binding site plan shall include the following for all lots:

(i) Building setback areas restricting structures to designated buildable areas;

(ii) Base flood data and sources and flood hazard notes including, but not limited to, base flood elevations, required flood protection elevations, the boundaries of the floodplain and the zero-rise floodway, if determined; and channel migration zone boundaries, if determined; and

(iii) Include the following notice:

> "Lots and structures located within flood hazard areas may be inaccessible by emergency vehicles during flood events. Residents and property owners should take appropriate advance precautions."

(5) New residential structures and substantial improvements of existing residential structures shall meet the following standards:

(a) Elevate the lowest floor, including basement, to the flood protection elevation;

(b) Do not fully enclose portions of the structure that are below the lowest floor area. Design and construct the areas and rooms below the lowest floor to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters as follows:

(i) Provide a minimum of two openings on each of two opposite side walls in the direction of flow, with each of those walls having a total open area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) Design and construct the bottom of all openings so they are no higher than one foot above grade; and

(iii) Screens, louvers or other coverings or devices are allowed over the opening if they allow the unrestricted entry and exit of floodwaters;

(c) Use materials and methods that are resistant to and minimize flood damage; and

(d) Elevate above or dry-proof all electrical, heating, ventilation, plumbing, air conditioning equipment and other utilities that service the structure, such as duct-work to the flood protection elevation;

(6) New nonresidential structures and substantial improvements of existing nonresidential structures shall meet the following standards:

(a) Elevate the lowest floor to the flood protection elevation; or

(b) Dry flood-proof the structure to the flood protection elevation meet the following standards:

(i) The applicant shall provide certification by a professional engineer that the dry flood-proofing methods are adequate to withstand the flood depths, pressures, velocities, impacts, uplift forces and other factors associated with the base flood. After construction, the engineer shall certify that the permitted work conforms to the approved plans and specifications; and

(ii) Approved building permits for dry flood-proofed nonresidential structures shall contain a statement notifying applicants that flood insurance premiums are based upon rates for structures that are one foot below the base flood elevation;

(c) Use materials and methods that are resistant to and minimize flood damage;

(d) Design and construct the areas and rooms below the lowest floor to automatically equalize hydrostatic and hydrodynamic flood forces on exterior walls by allowing for the entry and exit of floodwaters as follows:

(i) Provide a minimum of two openings on each of two opposite side walls in the direction of flow, with each of those walls having a total open area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) Design the bottom of all openings is no higher than one foot above grade; and

(iii) Screens, louvers or other coverings or devices are allowed if they do not restrict entry and exit of floodwaters; and

(e) Dry flood-proof all electrical, heating, ventilation, plumbing, air conditioning equipment and other utility and service facilities to or elevated above the flood protection elevation;

(7) Anchor all new construction and substantially improved structures to prevent flotation, collapse or lateral movement of the structure. The Director shall approve the method used to anchor the new construction;

(8) Newly sited manufactured homes and substantial improvements of existing manufactured homes shall meet the following standards:

(a) Manufactured homes shall meet all the standards in this section for residential structures, and the following standards;

(i) Anchor all manufactured homes; and

(ii) Install manufactured homes using methods and practices that minimize flood damage; and

(b) All mobile homes within a new mobile home park or expansion of an existing mobile home park must meet the requirements for flood hazard protection for residential structures; and

(c) Only manufactured homes are allowed in a new or existing mobile home park located in a flood hazard area;

(9) Public and private utilities shall meet the following standards:

(a) Dry-proof new and replacement utilities including, but not limited to, sewage treatment and storage facilities, to, or elevate above, the flood protection elevation;

(b) Locate new on-site sewage disposal systems outside the floodplain. When there is insufficient soil or area outside the floodplain, new on-site sewage disposal systems are allowed only in the zero-rise flood fringe. Locate on-site sewage disposal systems in the zero-rise flood fringe to avoid:

(i) Impairment to the system during flooding;

(ii) Contamination from the system during flooding;

(iii) Design all new and replacement water supply systems to minimize or eliminate infiltration of floodwaters into the system;

(iv) Above-ground utility transmission lines, except for electric transmission lines, are allowed only for the transport of nonhazardous substances; and

(v) Bury underground utility transmission lines transporting hazardous substances at a minimum depth of four feet below the maximum depth of scour for the base flood, as predicted by a civil engineer, and achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated;

(10) Critical facilities are only allowed within the flood fringe of the zero-rise flood fringe, when a feasible alternative site is not available and the following standards are met:

(a) Elevate the lowest floor to the 500-year floodplain elevation or three or more feet above the base flood elevation, whichever is higher.

(b) Dry flood-proof and seal structures to ensure that hazardous substances are not displaced by or released into flood waters.

(c) Elevate access routes to or above the base flood elevation from the critical facility to the nearest maintained public street or roadway.

(11) New construction or expansion of existing livestock flood sanctuaries is only allowed as follows:

(a) A livestock flood sanctuary is only allowed if there is no other suitable holding area on the site outside the floodplain to which the livestock have access;

(b) Siting and sizing that do not increase base flood elevations consistent with CMC 18.65.250(2) and 18.65.260(4); and

(c) Siting that is located in the area least subject to risk from floodwaters; and

(12) New construction or expansion of existing livestock manure storage facilities is only allowed as follows:

(a) The livestock manure storage facility is only allowed if there is not a feasible alternative are on the site outside the floodplain;

(b) Construct the livestock manure storage facility to the standards in an approved farm management plan prepared in accordance with Chapter 18.80 CMC provisions. The farm management plan shall demonstrate compliance with the following:

(i) Flood storage compensation consistent with subsection (1) of this section;

(ii) Siting and sizing that do not increase base flood elevations consistent with CMC 18.65.250(2) and 18.65.260(4);

(iii) Dry flood-proofing to the flood protection elevation; and

(iv) Siting that is located in the area least subject to risk from floodwaters. (Ord. 14-05 § 5)

18.65.250 Zero-rise floodway development standards and alterations.

The following standards apply to development proposals and alterations on sites within the zero-rise floodway:

(1) The standards that apply to the zero-rise flood fringe also apply to the zero-rise floodway. The more restrictive standards apply where there is a conflict;

(2) A development proposal shall not increase the base flood elevation except as follows:

(a) Revisions to the flood insurance rate map are approved by FEMA, in accordance with 44 CFR 70, to incorporate the increase in the base flood elevation; and

(b) Appropriate legal documents are prepared and recorded in which all property owners affected by the increased flood elevations consent to the impacts on their property;

(3) If post and piling construction techniques are used, the following are presumed to produce no increase in base flood elevation and a critical areas report is not required to establish this fact:

(a) New residential structures outside the FEMA floodway on lots in existence before November 27, 1990, that contain less than 5,000 square feet of buildable land outside the zero-rise floodway if the total building footprint of all existing and proposed structures on the lot does not exceed 2,000 square feet;

(b) Substantial improvements of existing residential structures in the zero-rise floodway, but outside the FEMA floodway, if the footprint is not increased; or

(c) Substantial improvements of existing residential structures that meet the standards for new residential structures in CMC 18.65.240;

(4) When post or piling construction are not used, a critical areas report is required in accordance with CMC 18.65.110 demonstrating that the proposal will not increase the base flood elevation;

(5) During the flood season from September 30th to May 1st the following are not allowed to be located in the zero-rise floodway:

(a) All temporary seasonal shelters, such as tents and recreational vehicles; and

(b) Staging or stockpiling of equipment, materials or substances that the Director determines may be hazardous to the public health, safety, or welfare;

(6) New residential structures and substantial improvements to existing residential structures or any structure accessory to a residential use shall meet the following standards:

(a) Locate the structures outside the FEMA floodway;

(b) Locate the structures only on lots in existence before November 27, 1990, that contain less than 5,000 square feet of buildable land outside the zero-rise floodway; and

(c) To the maximum extent practical, locate the structures the farthest distance from the channel, unless the applicant can demonstrate that an alternative location is less subject to risk;

(7) Public and private utilities are only allowed if:

(a) The Director determines that a feasible alternative site is not available;

(b) A waiver is granted by the Public Health of Seattle-King County for new on-site sewage disposal facilities;

(c) The utilities are dry flood-proofed to or elevated above the flood protection elevation;

(d) Above-ground utility transmission lines, except for electrical transmission lines, are only allowed for the transport of nonhazardous substances; and

(e) Underground utility transmission lines transporting hazardous substances are buried at a minimum depth of four feet below the maximum depth of scour for the base flood, as predicted by a civil engineer, and achieve sufficient negative buoyancy so that any potential for flotation or upward migration is eliminated;

(8) Critical facilities, except for those listed in subsection (9) of this section are not allowed within the zero-rise floodway; and

(9) Structures and installations that are dependent upon the zero-rise floodway are allowed in the zero-rise floodway if the development proposal is approved by all agencies with jurisdiction and meet the development standards for the zero-rise floodway. These structures and installations may include, but are not limited to:

(a) Dams or diversions for water supply, flood control, irrigation or fisheries enhancement;

(b) Flood damage reduction facilities, such as levees, revetments and pumping stations, provided that new structural flood hazard reduction measures are only allowed where demonstrated to be necessary and when nonstructural methods are infeasible and mitigation is provided to achieve no net loss; such facilities must be located landward of associated wetlands and buffer areas except where no alternative exists as documented in a geotechnical analysis;

(c) Stream bank stabilization structures only if a feasible alternative does not exist for protecting structures, public roadways, flood protection facilities or sole access routes. Bank stabilization projects must meet the standards of King County's Guidelines for Bank Stabilization projects (King County Surface Water Management 1998) and use bioengineering techniques to the maximum extent practical. An applicant may use alternative methods to the guidelines if the applicant demonstrates that the alternative methods provide equivalent or better structural stabilization, ecological and hydrological functions and salmonid habitat;

(d) Surface water conveyance facilities;

(e) Boat launches and related recreation structures;

(f) Bridge piers and abutments; and

(g) Approved aquatic area or wetland restoration projects including, but not limited to, fisheries enhancement projects. (Ord. 14-05 § 5)

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

18.65.260 FEMA floodway development standards and alterations.

The following standards apply to development proposals and alterations on sites within the FEMA floodway:

(1) The standards that apply to the zero-rise floodway also apply to the FEMA floodway. The more restrictive standards apply where there is a conflict;

(2) A development proposal shall not increase the base flood elevation. A civil engineer shall certify, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that any proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge;

(3) New residential or nonresidential structures are prohibited within the FEMA floodway;

(4) Livestock flood sanctuaries and manure storage facilities are prohibited in the FEMA floodway;

(5) If the footprint of the existing residential structure is not increased, substantial improvements of existing residential structures in the FEMA floodway, meeting the requirements of WAC 173-158-070, as amended, are presumed to not increase the base flood elevation and do not require a critical areas report to establish this fact;

(6) Maintenance, repair, replacement or improvement of an existing residential structure located within the agricultural production district on property that is zoned Urban Separator or R-4 is allowed in the FEMA floodway if the structure meets the standards for residential structures and utilities in CMC 18.65.240 and also meets the following requirements:

(a) The existing residential structure was legally established;

(b) The viability of the farm is dependent upon a residential structure within close proximity to other agricultural structures; and

(c) Replacing an existing residential structure within the FEMA floodway is only allowed if:

(i) There is not sufficient buildable area on the site outside the FEMA floodway for the replacement;

(ii) The replacement residential structure is not located in an area that increases the flood hazard in water depth, velocity or erosion;

(iii) The building footprint of the existing residential structure is not increased; and

(iv) The existing structure, including the foundation, is completely removed within 90 days of receiving a certificate of occupancy, or temporary certificate of occupancy, whichever occurs first, for the replacement structure;

(7) Maintenance, repair or replacement of a substantially damaged existing residential structure other than a residential structure located within the agricultural production district on property that is zoned Urban Separator or R-4, is allowed in the FEMA floodway if the structure meets the standards for existing residential structures and utilities in CMC 18.65.240 and also meets the following requirements:

(a) The Washington State Department of Ecology has assessed the flood characteristics of the site and determined:

(i) Base flood depths will not exceed three feet;

(ii) Base flood velocities will not exceed three feet per second;

(iii) There is no evidence of flood-related erosion, as determined by location of the project site in relationship to mapped channel migration zones or, if the site is not mapped, evidence of overflow channels and bank erosion; and

(iv) A flood warning system or emergency plan is in operation;

(b) The Washington State Department of Ecology has prepared a report of findings and recommendations to the City that determines the repair or replacement will not result in an increased risk of harm to life based on the characteristics of the site;

(c) The Director has reviewed the Washington State Department of Ecology report and concurs that the development proposal is consistent with the findings and recommendations in the report;

(d) The development proposal is consistent with the findings and recommendations of the Washington State Department of Ecology report;

(e) The existing residential structure was legally established;

(f) Replacing an existing residential structure within the FEMA floodway is only allowed if:

(i) There is not sufficient buildable area on the site outside the FEMA floodway;

(ii) The replacement structure is a residential structure built as a substitute for a previously existing residential structure of equivalent use and size; and

(iii) The existing residential structure, including the foundation, is removed within 90 days of receiving a certificate of occupancy, or temporary certificate of occupancy, whichever occurs first, for the replacement structure; and

(8) Maintenance or repair of a structure, as defined in WAC 173-158-030, that is identified as an historic resource, as defined in CMC 18.20.597, is allowed in the FEMA floodway if the structure and utilities meet the standards of CMC 18.65.240 for residential structures or nonresidential structures, as appropriate. (Ord. 14-05 § 5)

18.65.270 Flood hazard areas certification by engineer or surveyor.

(1) For all new structures or substantial improvements in a flood hazard area, the applicant shall provide a FEMA elevation certificate completed by a professional engineer or professional land surveyor licensed by the State of Washington documenting:

(a) The actual as-built elevation of the lowest floor, including basement; and

(b) The actual as-built elevation to which the structure is dry flood-proofed, if applicable.

(2) The applicant shall submit a FEMA elevation certificate before the issuance of a certificate of occupancy or temporary certificate of occupancy, whichever occurs first. For unoccupied structures, the applicant shall submit the FEMA elevation certificate before the issuance of the final letter of completion or temporary letter of completion, whichever occurs first.

(3) The engineer or land surveyor shall indicate if the structure has a basement.

(4) The Department shall maintain the certifications required by this section for public inspection and for certification under the National Flood Insurance Program. (Ord. 14-05 § 5)

18.65.275 Channel migration zones – Development standards and alterations.

The following standards apply to development proposal and alterations on sites within channel migration zones that have been mapped and adopted by public rule:

(1) The standards that apply to the aquatic area buffers in CMC 18.65.356 also apply to the severe channel migration zone and the portion of the moderate channel migration zone that is within the aquatic area buffer. The more-restrictive standards apply where there is a conflict;

(2) Only the alterations identified in CMC 18.65.050 are allowed within a severe channel migration hazard area;

(3) The following standards apply to development proposals and alterations within the moderate channel migration hazard area:

(a) Maintenance, repair or expansion of any use or structure is allowed if the existing structure's footprint is not expanded towards any source of channel migration

hazard, unless the applicant can demonstrate that the location is the least subject to risk;

(b) New primary dwelling units, accessory dwelling units or accessory living quarters, and required infrastructure, are allowed if:

(i) The structure is located on a separate lot in existence on or before February 16, 1995;

(ii) A feasible alternative location outside of the channel migration hazard area is not available on-site; and

(iii) To the maximum extent practical, the structure and supporting infrastructure is located the farthest distance from any source of channel migration hazard, unless the applicant can demonstrate that an alternative location is:

(A) The least subject to risk; or

(B) Within the outer third of the moderate channel migration hazard area as measured perpendicular to the channel;

(c) New accessory structures are allowed if:

(i) A feasible alternative location is not available on-site; and

(ii) To the maximum extent practical, the structure is located the farthest distance from the migrating channel;

(d) The subdivision of property is allowed within the portion of a moderate channel migration hazard area located outside an aquatic area buffer if:

(i) All lots contain 5,000 square feet or more of buildable land outside of the moderate channel migration hazard area;

(ii) Access to all lots does not cross the moderate channel migration hazard area; and

(iii) All infrastructure is located outside the moderate channel migration hazard area except that an on-site septic system is allowed in the moderate channel migration hazard area if:

(A) A feasible alternative location is not available on-site; and

(B) To the maximum extent practical, the septic system is located the farthest distance from the migrating channel. (Ord. 14-05 § 5)

18.65.280 Landslide hazard areas – Development standards and alterations.

The following standards apply to development proposals and alterations on sites containing landslide hazard areas:

(1) Only the alterations identified in CMC 18.65.050 are allowed within a landslide hazard area with a slope of 40 percent or greater;

(2) A buffer is required from all edges of the landslide hazard area. To eliminate or minimize the risk of property damage or injury resulting from landslides caused in whole or part by the development, the Director shall determine the size of the buffer based upon a critical area report prepared by a geotechnical engineer or geologist. If a critical area report is not submitted to the City, the minimum buffer is 50 feet. If the landslide hazard area has a vertical rise of more than 200 feet, the Department may increase the minimum building setback in CMC 18.65.280 to 100 feet;

(3) Unless otherwise provided in CMC 18.65.050 or as a necessary part of an allowed alteration, removal of any vegetation from a landslide hazard area or buffer is prohibited;

(4) All alterations shall minimize disturbance to the landslide hazard area, slope and vegetation unless necessary for slope stabilization; and

(5) Alterations in a landslide hazard area located on a slope less than 40 percent are allowed if:

(a) The proposed alteration will not decrease slope stability on contiguous properties; and

(b) The risk of property damage or injury resulting from landsliding is eliminated or minimized. (Ord. 14-05 § 5)

18.65.310 Steep slope hazard areas – Development standards and alterations.

The following standards apply to development proposals and alterations on sites containing steep slope hazard areas:

(1) Only the alterations identified in CMC 18.65.050 are allowed within a steep slope hazard area;

(2) A buffer or setback is required from all edges of the steep slope hazard. To eliminate or minimize the risk of property damage or injury resulting from slope instability, landsliding or erosion caused in whole or part by the development, the City shall determine the size of the buffer or setback based upon a critical area report prepared by a geotechnical engineer or geologist. If a critical area report is not submitted to the City, the minimum buffer is 50 feet. For building permits for single detached dwelling units only, the City may waive the special study requirement and authorize buffer reductions, if the City determines that the reduction will adequately protect the proposed development and the critical area; and

(3) Unless otherwise provided in CMC 18.65.050 or as a necessary part of an allowed alteration, removal of any vegetation from a steep slope hazard area or buffer is prohibited. (Ord. 14-05 § 5)

18.65.311 Critical aquifer recharge areas –Maps adopted.

The map entitled Covington Critical Aquifer Recharge Areas, included in Attachment B to the ordinance codified in this chapter, is hereby adopted as the designation of critical aquifer recharge areas in Covington in accordance with RCW 36.70A.170. The Director may upon consultation with the affected local water purveyor adopt public rules to add or remove critical aquifer recharge areas based on additional information about areas with susceptibility to ground water contamination or on changes to sole source aquifers or wellhead protection areas as identified in wellhead protection programs. (Ord. 14-05 § 5)

18.65.312 Critical aquifer recharge areas – Reclassification or declassification.

Upon application supported by a critical areas report that includes a hydrogeologic site evaluation, the Director may upon consultation with the affected local water purveyor determine that an area that is classified as a critical aquifer recharge area on the map adopted and amended by public rule as follows:

(1) Does not meet the criteria for a critical aquifer recharge area and declassify that area; or

(2) Has the wrong critical aquifer recharge area classification and determine the correct classification. (Ord. 14-05 § 5)

18.65.313 Critical aquifer recharge areas – Categories.

Critical aquifer recharge areas are categorized as follows:

(1) Category I critical aquifer recharge areas include those mapped areas that Covington has determined are highly susceptible to ground water contamination and that are located within a sole source aquifer or a wellhead protection area;

(2) Category II critical aquifer recharge areas include those mapped areas that Covington has determined:

(a) Have a medium susceptibility to ground water contamination and are located in a sole source aquifer or a wellhead protection area; or

(b) Are highly susceptible to ground water contamination and are not located in a sole source aquifer or wellhead protection area; and

(3) Category III critical aquifer recharge areas include those mapped areas that Covington has determined have low susceptibility to ground water contamination. (Ord. 14-05 § 5)

18.65.314 Critical aquifer recharge areas.

To protect critical aquifer recharge areas, in accordance with Chapter 36.70A RCW, the following code provisions are established to protect critical aquifer recharge areas: CMC Titles 13, 14, 16, and this title. (Ord. 14-05 § 5)

18.65.315 Critical aquifer recharge areas – Development regulations.

(1) The following new development proposals and alterations are not allowed on a site if any portion of the site is located in a Category I critical aquifer recharge area:

(a) Transmission pipelines carrying petroleum or petroleum products;

(b) Sand and gravel, and hard rock mining on land that is not zoned for mining as of the effective date of this section;

(c) Mining of any type below the upper surface of the saturated ground water that could be used for potable water supply;

(d) Processing, storage, and disposal of radioactive wastes, as defined in Chapter 43.200 RCW;

(e) Hydrocarbon extraction;

(f) Commercial wood treatment facilities on permeable surfaces;

(g) Underground storage tanks with hazardous substances, as defined in Chapter 70.105 RCW;

(h) Above-ground storage tanks for hazardous substances, as defined in Chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;

(i) Golf courses;

(j) Cemeteries;

(k) Wrecking yards;

(l) Landfills for hazardous waste, municipal solid waste, or special waste; and

(m) On lots smaller than one acre, on-site septic systems that are not approved by the Washington State Department of Health and either:

(i) Do not use an up flow media filter system or a proprietary packed-bed filter system; or

(ii) Are not designed to achieve approximately 80 percent total nitrogen removal for typical domestic wastewater.

(2) The following new development proposals and alterations are not allowed on a site if any portion of the site is located in a Category II critical aquifer recharge area:

(a) Mining of any type below the upper surface of the saturated ground water that could be used for potable water supply;

(b) Processing, storage, and disposal of radioactive wastes, as defined in Chapter 43.200 RCW;

(c) Hydrocarbon extraction;

(d) Commercial wood treatment facilities located on permeable surfaces;

(e) Underground storage tanks with hazardous substances, as defined in Chapter 70.105 RCW, that do not meet the requirements of Chapter 173-360 WAC and the International Fire Code;

(f) Above-ground storage tanks for hazardous substances, as defined in Chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;

(g) Wrecking yards;

(h) Landfills for hazardous waste, municipal solid waste, or special waste; and

(i) On lots smaller than one acre, on-site septic systems that are not approved by the Washington State Department of Health and either:

(i) Do not use an up-flow media filter system or a proprietary packed-bed filter system; or

(ii) Are not designed to achieve approximately 80 percent total nitrogen removal for typical domestic wastewater.

(3) The following new development proposals and alterations are not allowed on a site if any portion of the site is located in a Category III critical aquifer recharge area:

(a) Processing, storage, and disposal of radioactive wastes, as defined in Chapter 43.200 RCW;

(b) Hydrocarbon extraction;

(c) Commercial wood treatment facilities located on permeable surfaces;

(d) Underground storage tanks with hazardous substances, as defined in Chapter 70.105 RCW, that do not meet the requirements of Chapter 173-360 WAC and the International Fire Code;

(e) Above-ground storage tanks for hazardous substances, as defined in Chapter 70.105 RCW, unless protected with primary and secondary containment areas and a spill protection plan;

(f) Wrecking yards; and

(g) Landfills for hazardous waste, municipal solid waste, or special waste, as defined in Chapter 10.04 KCC.

(4) The following standards apply to development proposals and alterations that are substantial improvements on a site if any portion of the site is located in a critical aquifer recharge area:

(a) The owner of an underground storage tank in a Category I critical aquifer recharge area shall properly decommission or remove the tank; and

(b) The owner of an underground storage tank in a Category II or III critical aquifer recharge area shall meet the requirements of Chapter 173-360 WAC and the International Fire Code or shall properly decommission or remove the tank.

(5) In any critical aquifer recharge area, the property owner shall properly decommission an abandoned well.

(6) On sites located in a critical aquifer recharge area within the urban growth area, development proposals and alterations for new residential development, including, but not limited to, a subdivision, short subdivision, or dwelling unit, shall incorporate best management practices included in the King County Surface Water Design Manual into the site design in order to infiltrate storm water runoff to the maximum extent practical.

(7) On sites greater than 20 acres, the City may approve a development proposal otherwise prohibited by subsections (1), (2) or (3) of this section if the applicant demonstrates through a critical areas report that the development proposal is located outside of the critical aquifer recharge area and that the development proposal will not cause an unmitigated significant adverse environmental impact to the critical aquifer recharge area. (Ord. 14-05 § 5)

18.65.316 Critical aquifer recharge areas – Evaluation and implementation.

The City may evaluate and implement, as appropriate, ground water management plans and wellhead protection programs to further protect ground water resources as the critical aquifer protection program. (Ord. 14-05 § 5)

18.65.319 Wetlands – Categories.

(1) Different types of wetlands are separated from one another on the basis of wetland class and wetland category. Wetland class is a scientific system based upon dominant plant communities, substrate conditions, hydrologic regime, and location in the watershed. Wetland classification is a categorization system used to regulate land uses adjacent to wetlands.

(2) Wetland Class. Wetland class is science-based classification system based on a U.S. Fish and Wildlife Service publication titled Classification of Wetlands and Deepwater Habitats of the United States that was edited by Lewis M. Cowardin, et al, and published in December 1979. Cowardin divides wetlands into five systems (Marine, Estuarine, Riverine, Lacustrine, and Palustrine), eight subsystems (Subtidal, Intertidal, Tidal, Lower Perennial, Upper Perennial, Intermittent, Limnetic, and Littoral), 10 classes, and numerous modifiers. A combination of the system name, subsystem, name, class, and a modifier forms a code that identifies the wetland class.

WDOE expanded the term wetland class by incorporating use of the Hydrogeomorphic Method (HGM) classification into the Washington State Wetland Rating System for Western Washington (WDOE Publication No. 04-06-025). The HGM is based on the “landscape” location of a wetland or portion of a wetland. The HGM classes are Depressional, Riverine, Lake-fringe, Slope, Flats, and Freshwater Tidal.

(3) Wetland Category. Wetland category is used to regulate activities in a wetland and in determining the standard width of the required wetland buffer. The wetland category

is determined after a wetland has been identified and delineated as determined using the Washington State Wetland State Wetland Identification and Delineation Manual (WDOE Publication #96-94). Wetlands are evaluated and scored based on water quality functions, hydrologic functions, and habitat functions criteria.

WDOE Publication No. 04-06-025 contains the definitions and scoring methods used for determining if the wetland rating criteria of this chapter are met. The total score for the three functional areas determines the wetland category.

(4) Wetland Rating Categories. The wetland category of an individual wetland is determined by the total score for the functions which is recorded on the first page of the wetland rating form included in WAC 365-190-080(1)(a) and WDOE Publication No. 04-06-025. Category I and Category II wetlands are also rated for “special characteristics,” the value of which are included in the final category rating.

(a) Category I. Category I wetlands are: (1) relatively undisturbed estuarine wetlands larger than one acre; (2) wetlands that are identified by scientists of the Washington Natural Heritage Program/DNR as high-quality wetlands; (3) bogs larger than 12 acres; (4) mature and old-growth forested wetlands larger than one acre; (5) wetlands in coastal lagoons; and (6) wetlands that perform many functions well (scoring 70 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.

(b) Category II. Category II wetlands are: (1) estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre; (2) wetlands identified by the Washington State Department of Natural Resources as containing “sensitive” plant species; (3) bogs between one-quarter and one-half acre; (4) interdunal wetlands larger than one acre; or (5) wetlands with a moderately high level of functions.

(c) Category III. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 30 and 50 points); and (2) interdunal wetlands between one-tenth and one acre. Wetlands scoring between 30 and 50 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

(d) Category IV. Category IV wetlands have the lowest levels of functions (scoring less than 30 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience may provide some important functions, and should be protected to some degree. (Ord. 14-05 § 5)

18.65.320 Wetlands – Buffers.

(1) Wetland – Buffers. Except as otherwise provided in this section, buffers shall be provided from the wetland edge in accordance with the following standards:

(a) The standard buffer widths of the following table shall apply unless modified in accordance with subsection (2), (3), or (4) of this section:

WETLAND CATEGORY AND CHARACTERISTICS	BUFFER
Category I	
Bog	215 feet
Habitat score from 29 to 36 points	225 feet
Habitat score from 20 to 28 points	150 feet
Category I wetlands not meeting any of the criteria below	125 feet
Category II	
Habitat score from 29 to 36 points	200 feet
Habitat score from 20 to 28 points	125 feet
Category II wetlands not meeting any of the criteria below	100 feet
Category III	
Habitat score from 20 to 28 points	125 feet
Category III wetlands not meeting any of the criteria below	75 feet
Category IV	50 feet

(2) If a Category I or II wetland with habitat score greater than 20 points is located within 300 feet of a priority habitat area as defined by the Washington State Department of Fish and Wildlife, the buffer established by subsection (1) of this section shall be increased by 50 feet unless:

(a) The applicant provides a relatively undisturbed vegetated corridor at least 100 feet wide between the wetland and all priority habitat areas located within 300 feet of the wetland. The corridor shall be protected for the entire distance between the wetland and the priority habitat through a conservation easement, native growth protection easement or the equivalent; and

(b) The applicable mitigation measures in subsections (3)(b) of this section are provided; and

(3) Buffers calculated in accordance with subsections (1) and (2) of this section shall be reduced as follows:

(a) Buffers for all categories of wetlands shall be reduced by 25 feet if the applicant implements all applicable mitigation measures identified in subsection (3)(b) of this section, or if the applicant proposes alternate mitigation to reduce the impacts of the development and the Department determines the alternative provides equivalent mitigation.

(b) The following mitigation measures may be used by an applicant to obtain a reduced buffer width under subsection (1) of this section:

Disturbance	Measures to minimize impacts	Activities that may cause the disturbance
Lights	Direct lights away from wetland	Parking lots, warehouses, manufacturing, high density residential
Noise	Place activity that generates noise away from	Manufacturing, high density

	the wetland	residential
Toxic runoff	Route all new untreated runoff away from wetland, or Covenants limiting use of pesticides within 150 ft. of wetland, or Implement integrated pest management program	Parking lots, roads, manufacturing, residential areas, application of agricultural pesticides, landscaping
Change in water regime	Infiltrate or treat, detain and disperse into buffer new runoff from impervious surfaces	Any impermeable surface, lawns, tilling
Pets and human disturbance	Privacy fencing or landscaping to delineate buffer edge and to discourage disturbance of wildlife by humans and pets	Residential areas
Dust	BMPs for dust	Tilled fields
Degraded buffer condition	Nonnative plants to be removed and replaced with native vegetation per an approved landscaping plan to be bonded and monitored for a three-year period after completion to assure at least 80% survival of plantings	All activities potentially requiring buffers

(4) Where a legally established roadway transects a wetland buffer, the Director may approve a modification of the minimum required buffer width to the edge of the roadway if the part of the buffer on the other side of the roadway sought to be reduced:

(a) Does not provide additional protection of the proposed development or the wetland;

(b) Does not perform any biological, geological or hydrological buffer functions relating to the undisturbed portions of the wetland buffer;

(c) The alterations allowed in CMC 18.65.050 are not allowed in buffers established in accordance with this subsection; and

(d) The buffer widths established in accordance with this subsection are not further modified as provided for in subsection (3)(b) of this section.

(5) The City may establish minimum buffer widths for wetlands that are created as a result of enhancement or restoration projects that are not mitigation for a development proposal or alteration. (Ord. 14-05 § 5)

18.65.340 Wetlands – Specific mitigation requirements.

In addition to the requirements in CMC 18.65.320, the following applies to mitigation to compensate for the adverse impacts associated with an alteration to a wetland or wetland buffer:

(1) Mitigation measures must achieve equivalent or greater wetland functions, including, but not limited to:

(a) Habitat complexity, connectivity and other biological functions; and

(b) Seasonal hydrological dynamics, water storage capacity and water quality;.

(2) The following ratios of area of mitigation to area of alteration apply to mitigation measures for permanent alterations:

Category	Reestablishment	Rehabilitation	1:1 Replacement or recreation (R/C) and enhancement (E)	Enhancement Only
IV	1.5:1	3:1	1:1 R/C and 2:1 E	6:1
III	2:1	4:1	1:1 R/C and 2:1 E	8:1
II	3:1	8:1	1:1 R/C and 4:1 E	12:1
I – forested	6:1	12:1	1:1 R/C and 10:1 E	Case-by-case
I – based on score for functions	4:1	8:1	1:1 R/C and 6:1 E	Case-by-case
I – bog	Not allowed	6:1 rehabilitation of a bog	Case-by-case	Case-by-case

(3) The City may consider two or more contiguous sites under common ownership as one site for the purpose of mitigation ratios when:

(a) All applicable sites are in the same drainage sub-basin; and

(b) Equivalent or greater wetland functions will be achieved;

(4) For temporary alterations to a wetland or its buffer that are predominately woody vegetation, the City may require mitigation in addition to restoration of the altered wetland or buffer;

(5) For rectifying an illegal alteration to any category wetland or its buffer, the ratio of area of mitigation to area of alteration for repair, rehabilitation or restoration is one and one-half to one and the mitigation measures shall replicate the natural pre-alteration wetland configuration at its natural pre-alteration location to the maximum extent practical, including:

(a) The wetland edge and buffer configuration;

(b) The depth, width, length and gradient;

(c) The soil type, conditions and physical features;

(d) Similar species diversity and density; and

(e) The hydrologic and biologic functions.

(6) Mitigation of an alteration to a buffer of a wetland that occurs along an aquatic area lake shoreline in accordance with an alteration exception under this chapter shall include, but not be limited to, on-site revegetation, maintenance and other restoration of the buffer or setback area to the maximum extent practical;

(7) The City may allow mitigation for adverse impacts to buffers off the development proposal site at a ratio higher than that required for mitigation on-site if the applicant

demonstrates that it is not feasible to mitigate on the development proposal site, in the same wetland or wetland complex; and

(8) The City may modify the requirements in this section if the applicant demonstrates that, with respect to each wetland function, greater functions can be obtained in the affected hydrologic unit which the Director may determine to be the drainage sub-basin through alternative mitigation measures based on a qualified professional recommendation, prepared at the applicant's expense. (Ord. 14-05 § 5)

18.65.345 Wetlands – Specific mitigation requirements – Wetland mitigation banking.

City of Covington may approve mitigation in advance of unavoidable adverse impacts to wetlands caused by the development activities through an approved wetland mitigation bank. Wetland mitigation banking is not allowed in the agricultural production districts if the purpose is to compensate for filling wetlands for development outside of the agricultural production districts. (Ord. 14-05 § 5)

18.65.350 Wetlands – Limited exemption.

Isolated wetlands less than 2,500 square feet may be exempted from the provisions of CMC 18.65.320 through 18.65.340 and may be altered by filling or dredging if City of Covington determines that the cumulative impacts do not unduly counteract the purposes of this chapter and are mitigated pursuant to an approved mitigation plan. (Ord. 14-05 § 5)

18.65.355 Aquatic areas – Water types.

(1) Aquatic areas are categorized or "typed" as follows:

(a) Type S waters include all aquatic areas inventoried as "shorelines of the State" under King County's Shoreline Master Program, KCC Title 25, adopted by reference for City of Covington, in accordance with Chapter 90.58 RCW, including segments of streams where the mean annual flow is more than 20 cubic feet per second, marine shorelines and lakes 20 acres in size or greater;

(b) Type F waters include all segments of aquatic areas that are not Type S waters and that contain fish or fish habitat, including waters diverted for use by a Federal, State or tribal fish hatchery from the point of diversion for 1,500 feet or the entire tributary if the tributary is highly significant for protection of downstream water quality;

(c) Type N waters include all segments of aquatic areas that are not Type S or F waters and that are physically connected to Type S or F waters by an above-ground channel system, stream or wetland; and

(d) Type O waters include all segments of aquatic areas that are not Type S, F or N waters and that are not physically connected to Type S, F or N waters by an above-ground channel system, stream or wetland.

(2) For the purposes of the water types in subsections (1)(a) and (b) of this section, an above-ground channel system is considered to be present if the 100-year floodplains of both the contributing and receiving waters are connected.

(3) The Director may determine that an area upstream of a human-made barrier is not fish habitat considering the following factors:

(a) The human-made barrier is located beneath public infrastructure that is unlikely to be replaced and it is not feasible to remove the barrier without removing the public infrastructure;

(b) The human-made barrier is in the City of Covington and is located beneath one or more dwelling units and it is not feasible to remove the barrier without removing the dwelling unit;

(c) The human-made barrier is located in a sub-basin that is not designated "high" on the King County Basin Condition map adopted by King County Council in October, 2004; or

(d) The human-made barrier is not identified for removal by a public agency or in an adopted watershed plan. (Ord. 14-05 § 5)

18.65.356 Aquatic areas – Buffers.

(1) The following minimum buffers are established from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified:

(a) If the aquatic area buffer does not include a steep slope hazard area or landslide hazard area:

(i) A Type S or F aquatic area buffer is 115 feet or as required in the Shoreline Master Program;

(ii) A Type N aquatic area buffer is 60 feet; and

(iii) A Type O aquatic area buffer is 25 feet;

(b) If the aquatic area buffer does include a steep slope hazard area or landslide hazard area, the aquatic area buffer width is the greater of either the aquatic area buffer in this section or 25 feet beyond the top of the hazard area; and

(c) The aquatic area buffer includes the entire mapped severe channel migration hazard area plus the appropriate aquatic area buffer required by this section measured from the outer edge of the severe channel migration hazard area.

(2) The Director may approve a modification of the minimum required buffer widths on a case-by-case basis by averaging buffer widths if:

(a) The Director determines that the ecological structure and function of the buffer after averaging is equivalent to or greater than the structure and function before averaging;

(b) The resulting buffer meets the following standards:

(i) The total area of the buffer after averaging is equivalent to or greater than the area of the buffer before averaging;

(ii) The additional buffer is contiguous with the standard buffer;

(iii) Averaging does not occur waterward of the top of the associated steep slopes or into a channel migration zone; and

(iv) Averaging does not occur into the buffer of a wetland except as otherwise allowed.

(3) The Director may approve a modification of the minimum required buffer width for a development proposal if the applicant demonstrates that the buffer cannot provide certain functions because of soils, geology or topography subject to the following:

(a) The Director shall establish the buffer width based on the ecological functions that the buffer can provide based on soils, geology and topography; and

(b) The buffer widths established in accordance with this subsection are not further modified as provided for in subsection (2) of this section.

(c) In no case shall a buffer be reduced to less than 50 feet at any location, unless a shoreline variance is approved.

(d) Buffer mitigation is implemented pursuant to CMC xx.65.380.

(4) The Director may approve a modification of the minimum buffers established from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified for a development proposal that is located on a site with rural or agricultural use and zoned residential if the site is in compliance with CMC 18.65.050.

(5) Where a legally established roadway transects an aquatic area buffer, the Director may approve a modification of the minimum required buffer width to the edge of the roadway if the part of the buffer on the other side of the roadway sought to be reduced:

(a) Does not provide additional protection of the proposed development or the wetland;

(b) Does not perform any biological, geological or hydrological buffer functions relating to the undisturbed portions of the wetland buffer;

(c) The alterations allowed in CMC 18.65.050 are not allowed in buffers established in accordance with this subsection; and

(d) The buffer widths established in accordance with this subsection are not further modified as provided for in subsection (2) of this section.

(6) The Director may establish minimum buffer widths for aquatic areas that are created as a result of enhancement or restoration projects that are not mitigation for a development proposal or alteration. (Ord. 14-05 § 5)

18.65.360 Aquatic areas – Development standards and alterations.

The following standards apply to development proposals and alterations on sites containing aquatic areas or aquatic area buffers:

(1) Only the alterations identified in CMC 18.65.050 are allowed in aquatic areas and aquatic area buffers, unless specifically allowed under another provision of the City's adopted Shoreline Master Program;

(2) Grading for allowed alterations in aquatic area buffers is only allowed from May 1st to October 1st;

(3) The soil duff layer should not be disturbed to the maximum extent practical. The disturbed duff layer should be redistributed to other areas of the project site where feasible;

(4) The moisture-holding capacity of the topsoil layer should be maintained by minimizing soil compacting or reestablishing natural soil structure and the capacity to infiltrate on all areas of the site that impervious surfaces do not cover;

(5) The maximum extent practical, vegetation outside the aquatic area buffer is spatially connected to the vegetation in the buffer to prevent creation of windthrow hazards in the buffer;

(6) New structures within an aquatic area buffer should be sited to avoid the creation of future hazard trees and to minimize the impact on ground water movement from the structure; and

(7) To the maximum extent practical, hazard trees are retained in aquatic area buffers and are topped to reduce the hazard or pushed over toward the aquatic area. (Ord. 14-05 § 5)

18.65.370 Streams – Permitted alterations.

Alterations to streams and buffers may be allowed pursuant to CMC 18.65.075, as provided in the City's Shoreline Master Program or as follows:

(1) Alterations may only be permitted if based upon a special study;

(2) The applicant shall notify affected communities and native tribes of proposed alterations prior to any alteration if a stream is in a flood hazard area and shall submit evidence of such notification to the Federal Insurance Administration;

(3) There shall be no introduction of any plant or wildlife which is not indigenous to City into any stream or buffer unless authorized by a State or Federal permit or approval;

(4) The following surface water management activities and facilitates may be allowed in stream buffers as follows:

(a) Surface water discharge to a stream from a flow control or water quality treatment facility, sediment pond or other surface water management activity or facility may be allowed if the discharge is in compliance with the surface water design manual;

(b) A Type S or F stream or buffer may be used for a regional storm water management facility if:

(i) All requirements of the surface water design manual are met;

(ii) The use will not alter the rating or the factors used in rating the stream;

(iii) There are no significant adverse impacts to the stream; and

(c) A Type N stream or buffer may be used as a regional storm water management facility if the alteration will have no lasting adverse impact on any stream and all requirements of the surface water design manual are met;

(5) Except as provided in subsection (7) of this section, public and private trails may be allowed in stream buffers only upon adoption of administrative rules consistent with the following:

(a) The trail surface shall not be made of impervious materials, except that public multi-purpose trails may be made of impervious materials if they meet all other requirements including water quality; and

(b) Buffers shall be expanded, where possible, equal to the width of the trail corridor including disturbed areas;

(6) Stream crossings may be allowed and may encroach on the otherwise required stream buffer if:

(a) All crossings use bridges or other construction techniques which do not disturb the stream bed or bank, except that bottomless culverts or other appropriate methods demonstrated to provide fisheries protection may be used for Type N, S, and F streams if the applicant demonstrates that such methods and their implementation will pose no harm to the stream or inhibit migration of fish;

(b) All crossings are constructed during the summer low flow and are timed to avoid stream disturbance during periods when use is critical to salmonids;

(c) Crossings do not occur over salmonid spawning areas unless City determines that no other possible crossing site exists;

(d) Bridge piers or abutments are not placed within the FEMA floodway or the ordinary high water mark;

(e) Crossings do not diminish the flood-carrying capacity of the stream;

(f) Underground utility crossings are laterally drilled and located at a depth of four feet below the maximum depth of scour for the base flood predicted by a civil engineer licensed by the State of Washington. Temporary bore pits to perform such crossings may be permitted within the stream buffer established in CMC 18.65.360. Crossing of Type N or O streams when dry may be made with open cuts; and

(g) Crossings are minimized and serve multiple purposes and properties whenever possible;

(7) Stream relocations may be allowed only for:

(a) Type S or F streams as part of a public road project for which a public agency and utility exception is granted pursuant to CMC 18.65.050; and

(b) Type N streams for the purpose of enhancing resources in the stream if:

(i) Appropriate floodplain protection measures are used; and

(ii) The relocation occurs on the site, except that relocation off the site may be allowed if the applicant demonstrates that any on-site relocation is impracticable, the applicant provides all necessary easements and waivers from affected property owners and the off-site location is in the same drainage sub-basin as the original stream;

(8) For any relocation allowed by this section, the applicant shall 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 local ground water;

(c) There will be no increase in velocity;

(d) There will be no interbasin transfer of water;

(e) There will be no increase in sediment load;

(f) Requirements set out in the mitigation plan are met;

(g) The relocation conforms to other applicable laws; and

(h) All work will be carried out under the direct supervision of a qualified biologist;

(9) A stream channel may be stabilized if:

(a) Movement of the stream channel threatens existing residential or commercial structures, public facilities or improvements, unique natural resources or the only existing access to property; and

(b) The stabilization is done in compliance with the requirements of CMC 18.65.230 through 18.65.270 and administrative rules promulgated pursuant to this chapter;

(10) Stream enhancement not associated with any other development proposal may be allowed if accomplished according to a plan for its design, implementation, maintenance and monitoring prepared by a civil engineer, a landscape architect or a qualified biologist and carried out under the direction of a qualified biologist or landscape architect;

(11) A minor stream restoration project for fish habitat enhancement may be allowed if:

(a) The restoration is sponsored by a public agency with a mandate to do such work;

(b) The restoration is unassociated with mitigation of a specific development proposal;

(c) The restoration is limited to placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements;

(d) The restoration only involves the use of hand labor and light equipment; or the use of helicopters and cranes which deliver supplies to the project site; provided, that they have no contact with sensitive areas or their buffers; and

(e) The restoration is performed under the direction of a qualified biologist or landscape architect;

(12) Roadside and agricultural drainage ditches which carry streams with salmonids may be maintained through the use of best management practices developed in consultation with relevant City, County, State and Federal agencies. These practices shall be adopted as administrative rules;

(13) Subject to a clearing and grading permit issued pursuant to Chapter 18.45 CMC, the cutting of up to one cord of firewood may be permitted in buffers of five acres or larger in any year if the overall function of the buffer is not adversely affected. Removal of brush may also be permitted for the purpose of enhancing tree growth if the area of removal is limited to the diameter of the tree canopy at the time of planting;

(14) Reconstruction, Remodeling, or Replacement of Existing Structures. Reconstruction, remodeling, or replacement of an existing structure upon another portion of an existing impervious surface which was established pursuant to City of Covington regulations may be allowed; provided:

(a) If within the buffer, the structure is located no closer to the stream than the existing structure;

(b) The existing impervious surface within the buffer or stream is not expanded as a result of the reconstruction or replacement. (Ord. 14-05 § 5)

18.65.380 Aquatic areas – Specific mitigation requirements.

In addition the requirements in CMC 18.65.130, the following applies to mitigation to compensate for the adverse impacts associated with an alteration to an aquatic area or aquatic area buffer:

(1) Mitigation measures must achieve equivalent or greater aquatic area functions including, but not limited to:

(a) Habitat complexity, connectivity and other biological functions;

(b) Seasonal hydrological dynamics, water storage capacity and water quality; and

(c) Geomorphic and habitat processes and functions;

(2) To the maximum extent practical, permanent alterations that require restoration or enhancement of the altered aquatic area, aquatic area buffer or another aquatic area or aquatic area buffer must consider the following design factors, as applicable to the function being mitigated:

(a) The natural channel or shoreline reach dimensions including its depth, width, length and gradient;

(b) The horizontal alignment and sinuosity;

(c) The channel bed or lake bottom with identical or similar substrate and similar erosion and sediment transport dynamics;

(d) Bank and buffer configuration and erosion and sedimentation rates; and

(e) Similar vegetation species diversity, size and densities in the channel or lake bottom and on the riparian bank or buffer;

(3) Mitigation to compensate for adverse impacts shall meet the following standards:

(a) Not upstream of a barrier to fish passage;

(b) Is equal or greater in biological function; and

(c) To the maximum extent practical is located on the site of the alteration or within one-half mile of the site and in the same aquatic area reach at a 1:1 ratio of area of mitigation to area of alteration; or

(d) Is located in the same aquatic area drainage sub-basin and attains the following ratios of area of functional mitigation to area of alteration;

(i) A 3:1 ratio for a Type S or F aquatic area; and

(ii) A 2:1 ratio for a Type N or O aquatic area;

(4) For purposes of subsection (3) of this section, a mitigation measure is in the same aquatic area reach if the length of aquatic area shoreline meets the following criteria:

(a) Similar geomorphic conditions including slope, soil, aspect and substrate;

(b) Similar processes including erosion and transport of sediment and woody debris;

(c) Equivalent or better biological conditions including invertebrates, fish, wildlife and vegetation; and

(d) Equivalent or better biological functions including mating, reproduction, rearing, migration and refuge; or

(e) For tributary streams, a distance of no more than one-half mile.

(5) The City may reduce the mitigation ratios in subsection (3) of this section to 2:1 ratio for Type S or F aquatic area and 1.5:1 ratio for a Type N or O aquatic area if the applicant provides a scientifically rigorous mitigation monitoring program that includes the following elements:

(a) Monitoring methods that ensure that the mitigation meets the approved performance standards identified by the Director;

(b) Financial guarantees for the duration of the monitoring program; and

(c) Experienced, qualified staff to perform the monitoring;

(6) For rectifying an illegal alteration to any type of aquatic area or is buffer, mitigation measures must meet the following standards:

(a) Located on the site of the illegal alteration at a 1:1 ratio of area of mitigation to area of alteration; and

(b) To the maximum extent practical, replicates the natural pre-alteration configuration at its natural pre-alteration location including the factors in subsection (2) of this section; and

(7) The City may modify the requirements in this section if the applicant demonstrates that, with respect to each aquatic area function, greater functions can be obtained in the affected hydrologic unit that the Director may determine to be the drainage sub-basin through alternative mitigation measures. (Ord. 14-05 § 5)

18.65.381 Wildlife habitat conservation areas – Development standards.

The following standards apply to development proposals and alterations on sites containing wildlife habitat conservation areas, in accordance with guidelines adopted as administrative rules under Chapter 2.98 KCC.

The Director shall require protection of an active breeding site of any species with a habitat that is identified as requiring protection; provided, that the Washington State Department of Fish and Wildlife has adopted management recommendations. The City shall follow those adopted management recommendations that are published in Priority Habitats and Species Program Management Recommendations for Region IV, current edition. If management recommendations have not been adopted, the City shall base protection administrative rules and any decisions on best available science as presented in a qualified professional's report prepared by applicant, at applicant expense. (Ord. 14-05 § 5)

18.65.382 Wildlife habitat conservation areas – Modification.

Upon request of the applicant and based upon a site-specific critical areas report that includes, but is not limited to, an evaluation of the tolerance of the animals occupying the nest or rookery to the existing level of development in the vicinity of the nest or rookery, the Director may approve a reduction of the wildlife habitat conservation area for any species listed on the current version of the Washington Department of Fish and Wildlife Priority Habitat and Species List for Region IV, as amended. (Ord. 14-05 § 5)

18.65.383 Wildlife habitat network – Applicability.

The City shall make certain that segments of the wildlife habitat network are set aside and protected along any designated wildlife habitat network adopted by the comprehensive plan that generally coincide with stream corridors and wetlands areas, as follows:

(1) This section applies to the following development proposals on parcels that include a segment of the designated wildlife habitat network:

(a) All binding site plans, subdivisions and short subdivisions; and

(b) All development proposals on individual lots unless a segment of the wildlife habitat network in full compliance with CMC 18.65.270, already exists in a tract, easement or setback area, and a notice of the existence of the segment has been recorded;

(2) Segments of the wildlife habitat network must be identified and protected in one of the following ways:

(a) In binding site plans, subdivisions and short subdivisions, native vegetation is placed in a contiguous permanent open space tract with all developable lots sited on the remaining portion of the project site, or the lots are designed so that required setback areas can form a contiguous setback covering the network segments; or

(b) For individual lots, the network is placed in a City-approved setback area. To the maximum extent practical, existing native vegetation is included in the network. The notice required by CMC 18.65.170 is required;

(3) All wildlife habitat network tracts or setback areas must meet the design standards in CMC 18.35.270. (Ord. 14-05 § 5)

18.65.384 Wildlife habitat network – Development standards and alterations.

The following standards apply to development proposals and alterations on sites containing wildlife habitat network:

(1) Only the alterations identified in CMC 18.65.050 are allowed in the wildlife habitat network.

(2) The wildlife habitat network is sited to meet the following conditions:

(a) The network forms one contiguous tract or setback area that enters and exits the property where the network crosses the property boundary;

(b) To the maximum extent practical, the network maintains a width of 300 feet. The network width shall not be less than 150 feet at any point;

(c) The network is contiguous with and includes critical areas and their buffers;

(d) To the maximum extent practical, the network connects isolated critical areas or habitat; and

(e) To the maximum extent practical, the network connects wildlife habitat network segments, open space tracts or wooded areas on adjacent properties, if present.

(3) The wildlife habitat network tract must be permanently marked in accordance with this chapter.

(4) An applicant proposing recreation, forestry or any other use compatible with preserving and enhancing the habitat value of the wildlife habitat network located within the site must have an approved management plan. The applicant shall include and record the approved management plan for a binding site plan or subdivision with the covenants, conditions and restrictions (CCRs), if any. Clearing within the wildlife habitat network in a tract or tracts is limited to that allowed by an approved management plan.

(5) If the wildlife habitat network is contained in a setback area, a management plan is not required, though, clearing is not allowed within a wildlife habitat network within a setback area on individual lots, unless the property owner has an approved management plan.

(6) In binding site plans, subdivisions and short subdivisions a homeowners' association or other entity capable of long-term maintenance and operation shall monitor and assure compliance with any approved management plan.

(7) Segments of the wildlife habitat network set aside in tracts, conservation easements or setback area must comply with this code.

(8) The City may credit a permanent open space tract, wetland buffer or stream buffer containing the wildlife habitat network toward the other applicable requirements such as surface water management and the recreation space requirement of CMC 18.35.150, if the proposed uses within the tract are compatible with preserving and enhancing the wildlife habitat value. Restrictions on other uses within the wildlife habitat network tract shall be clearly identified in the management plan.

(9) The Director may waive or reduce these standards for public facilities such as schools, fire stations, parks and road projects, based on a qualified professional recommendation, prepared at the applicant's expense. (Ord. 14-05 § 5)

18.65.385 Wildlife habitat conservation area and wildlife network – Specific mitigation requirements.

In addition to the requirements in CMC 18.65.140, the following applies to mitigation to compensate for the adverse impacts associated with wildlife habitat conservation areas and wildlife habitat networks:

(1) Mitigation to compensate for the adverse impacts to a wildlife habitat conservation area must prevent disturbance of each protected species. On-site mitigation may include management practices, such as timing of the disturbance. Off-site mitigation is limited to sites that will enhance the wildlife habitat conservation area;

(2) Mitigation to compensate for the adverse impacts to the wildlife habitat network must achieve equivalent or greater biologic functions including, but not limited to, habitat complexity and connectivity functions. Specific mitigation requirements for impacts to the wildlife habitat network shall:

(a) Expand or enhance the wildlife network as close to the location of impact as feasible; and

(b) Attain the following ratios of area of mitigation to area of alteration:

(i) For mitigation on-site:

(A) One to one ratio for rectifying an illegal alteration to a wildlife habitat network; and

(B) One and one-half to one ratio for enhancement or restoration;

(ii) For mitigation off-site:

(A) Two to one ratio for rectifying an illegal alteration to a wildlife habitat network; and

(B) Three to one ratio for enhancement or restoration;

(3) For temporary alterations, the Department may require rectification, restoration or enhancement of the altered wildlife habitat network;

(4) The Director may increase the width of the wildlife habitat network to mitigate for risks to habitat functions based on a qualified professional recommendation, prepared at the applicant's expense;

(5) To the maximum extent practical, mitigation projects involving wildlife habitat network restoration should provide replication of the site's pre-alteration natural environment including:

(a) Soil type, conditions and physical features;

(b) Vegetation diversity and density; and

(c) Biologic and habitat functions; and

(6) The Director may modify the requirements in this section if the applicant demonstrates based on a qualified professional recommendation, prepared at the applicant's expense, that greater wildlife habitat functions will be obtained in the same wildlife habitat conservation area or wildlife habitat network through alternative mitigation measures. (Ord. 14-05 § 5)

18.65.390 Critical areas mitigation fee –Creation of fund.

There is hereby created a critical areas mitigation fund. The City of Covington shall administer this fund. The fund shall include establishment of subaccounts for streams, wetlands and wildlife habitat, as appropriate. (Ord. 14-05 § 5)

18.65.400 Critical areas mitigation fee – Source of funds.

The City of Covington shall deposit all moneys received from penalties resulting from the violation of rules and laws regulating development and activities within critical areas into the fund. (Ord. 14-05 § 5)

18.65.410 Critical areas mitigation fee – Use of funds.

Moneys from the fund, including any interest earned, shall only be used for paying the cost of enforcing and implementing critical area laws and rules. (Ord. 14-05 § 5)

18.65.420 Critical areas mitigation fee – Investment of funds.

The City of Covington shall deposit moneys in the fund not needed for immediate expenditure in a separate investment fund in accordance with RCW 36.29.020. The Director is the designated as the Investment Fund Director. (Ord. 14-05 § 5)

18.65.430 Critical area designation.

(1) A property owner or the property owner's agent may request a critical area designation for part or all of a site, without seeking a permit for a development proposal, by filing with the Director a written application for a critical area designation on a form provided by the Department. If the request is for review of a portion of a site, the application shall include a map identifying the portion of the site for which the designation is sought. Applications for critical area designations shall be accompanied by the fee for a Type 1 decision letter as set forth in the current fee resolution. The Department may elect to have the request reviewed by a City-approved and hired consultant. For reviews completed by a consultant, the Department is authorized to charge the applicant the actual costs charged by the consultant, in addition to the fee for a Type 1 decision letter.

(a) The designation is limited to the following determinations:

(i) The existence, location, and boundaries of any aquatic area, wetland, critical aquifer recharge area, landslide hazard area or steep slope on the site; and

(ii) The classification of any aquatic area or wetland.

(b) The designation may include any evaluation or interpretation of the applicability of critical area buffers to a future development proposal.

(2) In preparing the critical area designation, the Department shall perform a critical area review to:

(a) Determine whether any critical area that is subject to this designation process exists on the site and confirm its type, location, boundaries and classification;

(b) Determine whether a critical area report is required to identify and characterize the location, boundaries and classification of the critical area;

(c) Evaluate the critical area report, if required; and

(d) Document the existence, location and classification of any critical area that is subject to this designation process.

(3) If required by the Department, the applicant for a critical area designation shall prepare and submit to the Department the critical area report required by subsection (2)(b) of this section. For sites zoned for single detached dwelling units involving

wetlands or aquatic areas, the applicant may elect to have the Department conduct the special study in accordance with the provisions for reimbursement from applicant contained in this code and City's fee resolution.

(4) The City shall make the determination of a critical area designation in writing within 120 days after the application for a critical area designation is complete, as provided in Chapter 14.30 CMC. The periods in CMC 14.30.100 are excluded from the 120-day period. The written determination made under this section as to the existence, location, classification of a critical area and critical area buffers is effective for five years from the date the determination is issued if there has been no change in site conditions. The Director shall rely on the determination of the existence, location and classification of the critical area and the critical area buffer in its review of a complete application for a permit or approval filed within five years after the determination is issued. If the determination applies to less than an entire site, the determination shall clearly identify the portion of the site to which the determination applies.

(5) If the Director designates critical areas on a site under this section, the applicant for a development proposal on that site shall submit proof that a critical area notice has been filed as required by City code. Except as provided in this subsection, the Department's determination under this section is final. If the Department relies on a critical area designation made under this section during its review of an application for a permit or other approval of a development proposal and the permit or other approval is subject to an administrative appeal, any appeal of the designation shall be consolidated with and is subject to the same appeal process as the underlying development proposal.

(6) If the Covington Hearing Examiner makes the City's final decision with regard to the permit or other approval type for the underlying development proposal, the Hearing Examiner's decision constitutes the City's final decision on the designation.

(7) If the City of Covington City Council makes the City's final decision with regard to the permit or other approval type for the underlying development proposal, City of Covington City Council's decision constitutes the City's final decision on the designation. (Ord. 20-07 § 128; Ord. 14-05 § 5)