



Shelton City Council  
Meeting Agenda  
January 19, 2021 at 6:00 p.m.  
Virtual Platform

**A. Call to Order**

- Pledge of Allegiance
- Roll Call
- Late Changes to the Agenda

**B. Council Reports**

**C. Consent Agenda** (Action)

1. Voucher numbered 103842 in the amount of \$2,453.59
2. Vouchers numbered 103843 through 103896 in the total amount of \$171,953.39
3. Vouchers numbered 103926 through 103934 in the total amount of \$20,615.86
4. Quarterly Report-Quixote Communities – Written by Executive Director Jaycie Osterberg

**D. Presentations**

1. Swearing-in Video of Police Chief Beason
2. Shoreline Master Program Update – Presented by Sr. Planner Jason Dose
3. Street Standards – Presented by Public Works Director Jay Harris
4. 2019 Accountability & Financial Audit – Presented by Finance Manager Teri Schnitzer

**E. General Public Comment** (3-minute time limit)

**F. Business Agenda** (Study/No Action/Public Comment Taken)

1. Workforce Housing Development Project – Presented by City Manager Jeff Niten
2. Public Hearing – Ordinance No. 1964-0121 2020 Supplemental Budget – Presented by Finance Director Aaron BeMiller
3. Resolution No. 1183-1120 On-Call Qualified Pool List Contracts – Presented by Public Works Director Jay Harris

**G. Action Agenda** (Action/Public Comment Taken)

1. Eagle Point Park Master Plan – Presented by Community Development Director Mark Ziegler
2. Ordinance No. 1959-1120 Franchise Agreement - Mason County – Presented by Public Works Director Jay Harris
3. Ordinance No. 1960-1220 Amending Shelton Municipal Code Chapter 3.52 – Presented by Finance Director Aaron BeMiller
4. Resolution No. 1184-1120 Master Fee Schedule Update – Presented by Finance Director Aaron BeMiller
5. Contracts for Supplemental Building Code Services– Presented by Community Development Director Mark Ziegler
6. City Policy Update – Presented by City Manager Jeff Niten

**H. Administration Reports**

- City Manager Report

**I. New Items for Discussion**

**J. Announcement of Next Meeting – February 2, 2021 at 6:00 p.m.**

**K. Adjourn**

***Special Note for Public Participation***

*The meeting can be viewed at: [masonwebtv.com](http://masonwebtv.com)*

*The public can provide comments by:*

*Email: [jeff.niten@sheltonwa.gov](mailto:jeff.niten@sheltonwa.gov)*

*Telephone: (360) 432-5105*

*Joining the Zoom meeting by clicking on the link posted on the City Council's webpage*

*Your comments will be relayed directly to the Council.*





# 2021 Looking Ahead

(Items and dates are subject to change)

Tues. 2/2 6:00 p.m.	Regular Meeting	<p>Consent Agenda</p> <ul style="list-style-type: none"> <li>Vouchers/Payroll Warrants/Meeting Minutes</li> </ul> <p>Presentations</p> <ul style="list-style-type: none"> <li>Avram – Workforce Housing Project</li> <li>FCS Group Stormwater Rate Presentation #1</li> </ul> <p>Business Agenda</p> <ul style="list-style-type: none"> <li>Public Hearing Ordinance No. 1961-1220 Telephone B &amp; O Tax</li> <li>Public Hearing Ordinance No. 1965-0121 Dept. of Ecology 2018 Stormwater Manual</li> <li>Public Hearing Ordinance No. 1967-0121 Consolidation of Utility Tax</li> <li>Memorandum of Understanding Shelton Skate Park</li> </ul> <p>Action Agenda</p> <ul style="list-style-type: none"> <li>Ordinance No. 1963-1220 Franchise Agreement – PUD #3</li> <li>Ordinance No. 1964-0121 2020 Supplemental</li> <li>Resolution No. 1183-1120 On Call Qualified Pool List Contracts</li> <li>City Policy Updates</li> </ul> <p>Administration Report</p> <ul style="list-style-type: none"> <li></li> </ul>	Packet Items Due: Fri. 1/22 – 5:00 p.m.
Fri. 2/12		Notice to The Journal for Public Hearing on 3/2 to be published on 2/18	N/A
Tues. 2/16 6:00 p.m.	Regular Meeting	<p>Consent Agenda</p> <ul style="list-style-type: none"> <li>Vouchers/Payroll Warrants/Meeting Minutes</li> </ul> <p>Presentations</p> <ul style="list-style-type: none"> <li>FCS Group Stormwater Rate Presentation #2</li> </ul> <p>Business Agenda</p> <ul style="list-style-type: none"> <li></li> </ul> <p>Action Agenda</p> <ul style="list-style-type: none"> <li>Ordinance No. 1961-1220 Telephone B &amp; O Tax</li> <li>Ordinance No. 1965-0121 Dept. of Ecology 2018 Stormwater Manual</li> <li>Ordinance No. 1967-0121 Consolidation of Utility Tax</li> </ul> <p>Administration Report</p> <ul style="list-style-type: none"> <li></li> </ul>	Packet Items Due: Fri. 2/5 – 5:00 p.m.

Tues. 3/2 6:00 p.m.	Regular Meeting	Consent Agenda <ul style="list-style-type: none"> <li>• Vouchers/Payroll Warrants/Meeting Minutes</li> </ul> Presentations <ul style="list-style-type: none"> <li>• FCS Group GFC Presentation</li> </ul> Business Agenda <ul style="list-style-type: none"> <li>• Public Hearing Ordinance No. 1963-1220 Franchise Agreement – PUD #3</li> <li>• Resolution No. 1186-1220 Surplus Computer Equipment</li> </ul> Action Agenda <ul style="list-style-type: none"> <li>• Administration Report</li> </ul>	Packet Items Due: Fri. 2/19 – 5:00 p.m.
Tues. 3/16 5:50 p.m.	SMPD Meeting	Consent Agenda <ul style="list-style-type: none"> <li>• Vouchers/Meeting Minutes</li> </ul> Business Agenda <ul style="list-style-type: none"> <li>• </li> </ul> Action Agenda <ul style="list-style-type: none"> <li>• </li> </ul> Administration Report	Packet Items Due: Fri. 3/5 – 5:00 p.m.
Tues. 3/16 6:00 p.m.	Regular Meeting	Consent Agenda <ul style="list-style-type: none"> <li>• Vouchers/Payroll Warrants/Meeting Minutes</li> </ul> Presentations <ul style="list-style-type: none"> <li>• </li> </ul> Business Agenda <ul style="list-style-type: none"> <li>• Public Hearing Ordinance No. XXXX-XXXX Consideration of the Purchase &amp; Sale</li> <li>• Public Hearing Ordinance No XXXX-XXXX Consideration of Surplus Property</li> <li>• Public Hearing Ordinance No. 1962-1220 Consideration of Workforce Housing Development Agreement</li> </ul> Action Agenda <ul style="list-style-type: none"> <li>• Ordinance No. 1963-1220 Franchise Agreement – PUD #3</li> <li>• Resolution No. 1186-1220 Surplus Computer Equipment</li> </ul> Administration Report	Packet Items Due: Fri. 3/5 – 5:00 p.m.
Tues. 4/6 6:00 p.m.	Regular Meeting	Consent Agenda <ul style="list-style-type: none"> <li>• Vouchers/Payroll Warrants/Meeting Minutes</li> </ul> Presentations <ul style="list-style-type: none"> <li>• </li> </ul> Business Agenda <ul style="list-style-type: none"> <li>• </li> </ul> Action Agenda <ul style="list-style-type: none"> <li>• Ordinance No. XXXX-XXXX Consideration of the Purchase &amp; Sale</li> <li>• Ordinance No XXXX-XXXX Consideration of Surplus Property</li> </ul>	Packet Items Due: Fri. 3/26 – 5:00 p.m.

		<ul style="list-style-type: none"> <li>• Ordinance No. 1962-1220 Consideration of Workforce Housing Development Agreement</li> <li>• Administration Report</li> <li>•</li> </ul>	
Tues. 4/20 6:00 p.m.	Regular Meeting	Consent Agenda <ul style="list-style-type: none"> <li>• Vouchers/Payroll Warrants/Meeting Minutes</li> </ul> Presentations <ul style="list-style-type: none"> <li>•</li> </ul> Business Agenda <ul style="list-style-type: none"> <li>•</li> </ul> Action Agenda <ul style="list-style-type: none"> <li>•</li> </ul> Administration Report <ul style="list-style-type: none"> <li>•</li> </ul>	Packet Items Due: Fri. 4/9 – 5:00 p.m.
Tues. 5/4 6:00 p.m.	Regular Meeting	Consent Agenda <ul style="list-style-type: none"> <li>• Vouchers/Payroll Warrants/Meeting Minutes</li> </ul> Presentations <ul style="list-style-type: none"> <li>•</li> </ul> Business Agenda <ul style="list-style-type: none"> <li>•</li> </ul> Action Agenda <ul style="list-style-type: none"> <li>•</li> </ul> Administration Report <ul style="list-style-type: none"> <li>•</li> </ul>	Packet Items Due: Fri. 4/23 – 5:00 p.m.

Other – TBD

- UGA/Annexation Policy (Water/Sewer Extensions)
- Outside City Water/Sewer Extensions
- More Standing Committees by the Council
- June 1, 2021 – C Street Update
- December 7, 2021 – C Street Update

**VOUCHER APPROVAL**

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein vouchers number 103842 in the total amount of \$2,453.59 that the claims are just, due and unpaid obligations against the City of Shelton, and that I am authorized to authenticate and certify said claims.

Signed this 31<sup>st</sup> of December, 2020.

*for* Debi Schmitz Accounting Manager  
Director of Financial Services

We, the undersigned members of the City Council of Shelton, Washington, do hereby certify that the vouchers contained herein are approved for payment.

Signed this \_\_\_\_\_ of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor Kevin Dorcy

\_\_\_\_\_  
Deputy Mayor Deidre Peterson

\_\_\_\_\_  
Councilmember James Boad

\_\_\_\_\_  
Councilmember Megan Fiess

\_\_\_\_\_  
Councilmember Kathy McDowell

\_\_\_\_\_  
Councilmember Eric Onisko

\_\_\_\_\_  
Councilmember Joe Schmit

**VOUCHER APPROVAL**

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein vouchers number 103843 through number 103896 in the total amount of \$171,953.39 that the claims are just, due and unpaid obligations against the City of Shelton, and that I am authorized to authenticate and certify said claims.

Signed this 31<sup>st</sup> of December, 2020.

  
Accounting Manager  
for Director of Financial Services

We, the undersigned members of the City Council of Shelton, Washington, do hereby certify that the vouchers contained herein are approved for payment.

Signed this \_\_\_\_\_ of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mayor Kevin Dorcy

\_\_\_\_\_  
Deputy Mayor Deidre Peterson

\_\_\_\_\_  
Councilmember James Boad

\_\_\_\_\_  
Councilmember Megan Fiess

\_\_\_\_\_  
Councilmember Kathy McDowell

\_\_\_\_\_  
Councilmember Eric Onisko

\_\_\_\_\_  
Councilmember Joe Schmit

## VOUCHER APPROVAL

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein vouchers number 103926 through number 103934 in the total amount of \$20,615.86 that the claims are just, due and unpaid obligations against the City of Shelton, and that I am authorized to authenticate and certify said claims.

Signed this 8th of January, 2021.

John Schutz Accounting Manager  
for Director of Financial Services

We, the undersigned members of the City Council of Shelton, Washington, do hereby certify that the vouchers contained herein are approved for payment.

Signed this \_\_\_\_\_ of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mayor Kevin Dorcy

\_\_\_\_\_  
Deputy Mayor Deidre Peterson

\_\_\_\_\_  
Councilmember James Boad

\_\_\_\_\_  
Councilmember Megan Fiess

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Councilmember Kathy McDowell

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Councilmember Eric Onisko

\_\_\_\_\_  
Councilmember Joe Schmit



## Shelton Veterans Village Update December 2020

### THE TEAM:

- Architect – MSGS Architects (Garner Miller, lead. Also worked on Quixote Village and Orting Veterans Village)
- Developer – Community Frameworks (Stephen Taul, Paul Trautman, lead. CF also worked on Quixote Village and Orting Veterans Village)
- Civil Engineer – Olympic Engineering (Chris Merritt, lead)
- General Contractor – FORMA (Graydon Holden, lead. Graydon personally worked on Quixote Village)
- Tiny Home Builders – Indie Dwell (Scott Beecham, lead)
- Community Center Builder – Alpha Steel

### WHERE WE ARE AT:

#### Fill material

- Working with the city to map out a plan to remove the fill material on the site.
- Confirmation letter sent to Jeff Niten and Ken Gill on 11/25/2020.

#### Permits

- Civil Design – waiting to get comments back from the city.
- Indie Dwell will apply for one-year L&I permits by mid-January 2021 (for four-plex and duplex units)
  - Indie Dwell's A&E team are currently working on the construction documentation, including structural framing and detailing and MEP coordination.
  - When the design development is complete, they will go through a detailed code review for the building, life safety, energy, and ADA compliance. Then will submit for review.
- Forma will apply for 6-month city of Shelton permits by late-January 2021 (for community center)
  - Forma is working with Alpha Steel on engineering before they submit permits
- Community Frameworks continue working with Senior Planner Jason Dose on the NEPA environmental review. The completed review will expedite any commitment of federal project-based rent assistance.

#### Timelines

- We were originally slated for construction with Indie Dwell for March. Unfortunately, we had to extend that out because we are continuing to look for operating funding for the project.



- Construction for IndieDwell is slated for July in their production schedule. All site work will need to be done beforehand so that the site is ready for the homes.
- It will take Forma about 5 months from start of construction to being able to receive the tiny homes.

### Operating

- We are currently looking for secured operating funding for the village. We thought we would be able to secure project-based vouchers to subsidize our resident's low rent amounts (they pay 30% of their income in rent, which may be 0 for some people) with the Bremerton Housing Authority but they have backed out of their commitment.
- We have a lot of support for this project including Senator Sheldon, Senator Randall, Representative MacEwen, Representative Griffey, and the WDVA who are all trying to advocate for us to receive vouchers. Looking at options to utilize other county VASH vouchers that aren't being utilized.
- Looking at other options including the 811 PRA Vouchers for individuals with disabilities, looking at other counties that do not utilize all of their VASH Vouchers, state O&M, state Supportive Services grant, 2163 funds, Continuum of Care, and the Foundational Community Supports program through Amerigroup.
- If we do not find secured funding for operating, we will have to pause the project until we find a secured amount we are comfortable moving forward with.

### Outreach

- Free digital open house every 3<sup>rd</sup> Wednesday of the month from 5:30pm-6:30pm
- New Shelton Veterans Village Facebook page.





### Chief Carole Beason Swearing In



Incoming Shelton Police Chief Carole Beason was sworn into office on Monday, January 11 at 2:00 p.m. at the Civic Center. Mayor Kevin Dorcy administered the oath of office. MasonWebTV livestreamed the event, which can be viewed at: <https://www.youtube.com/watch?v=Ao9oj-Glz4g>



## CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item D2)

Touch Date: 01/05/2021  
Brief Date: 01/19/2021  
Action Date: N/A

Department: Community Development  
Presented By: Jason Dose

### APPROVED FOR COUNCIL PACKET:

#### ROUTE TO:

- ☒ Dept. Head  
☐ Finance Director  
☐ Attorney  
☒ City Clerk  
☐ City Manager

#### REVIEWED:

\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

#### PROGRAM/PROJECT TITLE:

**Shoreline Master Program Periodic Review Update.**

#### Action Requested:

#### ATTACHMENTS:

**Strikeout and Underline Documents illustrating proposed changes to remain in compliance with State Guidelines.**

- 1) Chapter 21.64 of the Shelton Municipal Code.
- 2) Chapter 2 of the City of Shelton Shoreline Master Program (SMP)
- 3) Chapter 5 of the City of Shelton SMP
- 4) Chapter 6 of the City of Shelton SMP
- 5) Chapter 7 of the City of Shelton SMP
- 6) Chapter 8 of the City of Shelton SMP

- ☐ Ordinance  
☐ Resolution  
☐ Motion  
☒ Other/Update

### DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

In 1971, the Washington State Legislature enacted the Shoreline Management Act (SMA). The Act recognized the value our State's shorelines offer for the recreation, commercial, ecological, and residential needs of our residents and future generations. To meet the requirements of the SMA, the City of Shelton adopted its first Shoreline Master Program (SMP) in 1975. The City waited nearly 20 years to comprehensively update it in 1995 with a substantial grant from the Department of Ecology.

In 2003 The Washington State Legislature passed Substitute Senate Bill 6012 which required Cities and Counties to comprehensively update their SMP's, a task which the City completed in May 2013, also with a substantial grant from the Department of Ecology. SSB 6012 also stipulates that Cities and Counties regularly review and update their SMP's, generally on 8 year intervals, to ensure they remain consistent with current State Law and, hopefully, negate the need for very belabored comprehensive updates such as the City undertook in 1995 and 2013.

The City of Shelton is currently slated to have this most recent required update completed by July 2021 and anticipates that the update can be nearly entirely completed with existing staff, though some mapping may need to be updated and staff anticipates utilizing the City's State contracted consortium for that purpose. To aid in offsetting the cost of this mandated update, the Washington State Department of Ecology offered the City a \$16,800, no match, grant to aid in offsetting staff time, consulting services, and materials required to update the SMP.

The City of Shelton City Council authorized staff to accept the grant from the Washington State Department of Ecology on August 18, 2020. The City has been working diligently with Department of Ecology Staff to update the existing City of Shelton Shoreline Master Program (SMP) to meet updated laws and requirements mandated by the Washington State Legislature. Draft Copies of the following documents (in ~~strikeout~~ and underline) are attached for informational purposes (with a general summary of changes indicated):

- 1) **Chapter 21.64 of the City of Shelton Municipal Code (Critical Areas Protection).** The Department of Ecology updated its guidance relative to Wetland typing, review, and protection in 2014. The changes noted in the chapter relate to the definition of “Wetland Delineation” to reflect DOE recommendations and a large amount of the “Wetlands” section of the code (21.64.100 through 21.64.147) has been updated to reflect the new science and methodology for typing and protecting wetlands in Western Washington. See Attachment 1.
- 2) **Chapter 2 of the City of Shelton Shoreline Master Program (SMP).** The Washington State Legislature updated a number of items relating to threshold costs for Substantial Development Permits and listed exemptions for various projects. See Attachment 2.
- 3) **Chapter 5 of the City of Shelton SMP.** The changes to Chapter 5 a limited to Section 5.5 (Critical Areas Protection) and simply remove citations to handling of wetlands in Shoreline Jurisdiction that are superseded by the changes to Chapter 21.64. See Attachment 3.
- 4) **Chapter 6 of the City of Shelton SMP.** In 2014 the Washington State Legislature created a new definition and policy for legally established “Floating on-water residences” established before July 1, 2014 (no new “Floating on-water residences” are allowed in Washington State). Staff amended the use table contained in Chapter 6 to clarify that “Floating on-water residences” are not allowed.
- 5) **Chapter 7 of the City of Shelton SMP.** The Changes proposed in Chapter 7 simply update legal (WAC and RCW) citations, add updated requirements/allowances relating to State (WSDOT) projects passed by the State Legislature, and update Ecology’s procedure for review of City issued Shoreline Permits to reflect current practices.
- 6) **Chapter 8 of the City of Shelton SMP.** The only change proposed in Chapter 7 is to update the legal definition of “development” as it relates to shoreline projects to clarify that dismantling or removing structures (without associated development or redevelopment) is not considered development relative to shoreline jurisdiction.

This update is provided as a general status/procedural update to the Council regarding this required periodic update to the City’s Shoreline Master Program. In the coming months staff will be reaching out to the public and several shoreline stakeholders (including, but not limited to: The Shelton Marina/Yacht Club Operators, Manke Lumber, Sierra Pacific Industries, local tribes, local Salmon Enhancement Groups, the Master Builders Association) to discuss the proposed changes. Staff also plans on working with the Department of Ecology staff to do a joint review/public hearing process (meaning, both the City and the State run our public hearing processes/review processes in tandem) prior to the formal adoption of any changes being requested of the Council. This will likely take place, in earnest, in late March to April of this year.

#### ANALYSIS/OPTIONS/ALTERNATIVES:

Update to the City of Shelton Shoreline Master Program to reflect State Guidance/Requirements is mandatory for the City to remain in compliance.

#### BUDGET/FISCAL INFORMATION:

The State of Washington Grant (\$16,800) is offsetting staff time and materials required to perform the update.

#### PUBLIC INFORMATION REQUIREMENTS:

Not applicable as no action is requested at this time.

#### STAFF RECOMMENDATION/MOTION:

This update briefing is provided as a status update only. No action is requested of the Council at this time.

## **Attachment 1**

**Chapter 21.64 of the Shelton Municipal Code  
(2020/21 Shoreline Master Program Periodic Update  
Draft, January 2021)**

**Chapter 21.64**

**CRITICAL AREA PROTECTION**

Sections:

21.64.010	Purpose and authority.
21.64.020	Applicability.
21.64.030	Definitions.
21.64.040	Critical area maps.
21.64.050	Multiple designations.
21.64.060	SEPA.
21.64.070	Permitted uses.
21.64.071	Allowed activities.
21.64.080	Preliminary consultation.
21.64.081	Permit processing.
21.64.082	Critical area studies.
21.64.083	Reasonable use.
21.64.084	Density credits.
21.64.085	Notice on title.
21.64.086	Building setbacks.
21.64.087	Mitigation.
21.64.088	Nonconforming development.
21.64.089	Administrative rules.
21.64.090	Enforcement.
21.64.091	Appeals.
21.64.095	Frequently flooded areas.
21.64.100	Wetland designation.
21.64.120	Wetland review and reporting requirements.
21.64.130	Wetland buffers.
21.64.135	Provisions for small isolated wetlands.
21.64.140	Wetland buffer averaging.
21.64.141	Wetland buffer increase.
21.64.142	Allowed activities in wetlands and buffers.
21.64.143	Wetland mitigation.
21.64.144	Wetland mitigation plan.
21.64.145	Wetland mitigation monitoring.
21.64.147	Development standards—Wetlands.
21.64.200	Geologically hazardous areas—Designation.
21.64.210	Development standards for landslide hazard areas.
21.64.220	Development standards for erosion hazard areas.
21.64.230	Seismic hazard areas standards.
21.64.240	Geologically hazardous areas review and reporting requirements.
21.64.300	Fish and wildlife habitat—Designation.
21.64.310	Fish and wildlife habitat conservation areas—Water bodies.
21.64.320	Fish and wildlife habitat conservation areas—Water bodies—Buffers.
21.64.325	Fish and wildlife habitat conservation areas—Water bodies—Buffer averaging.
21.64.326	Fish and wildlife habitat conservation areas—Water bodies—Buffer increase.
21.64.330	Fish and wildlife habitat conservation areas—Water bodies—Allowed uses.
21.64.340	Other fish and wildlife habitat conservation areas.
21.64.360	Fish and wildlife habitat conservation areas—Review and reporting requirements.
21.64.370	Fish and wildlife habitat conservation areas—Mitigation standards.
21.64.380	Fish and wildlife habitat conservation areas—Development standards for adjacent development.

**21.64.010 Purpose and authority.**

A. These sections establish regulations pertaining to the development of critical areas, as required under the Growth Management Act of 1990 (Chapter 36.70A RCW). State guidelines for classification and protective methods for critical areas are addressed in Chapter 365-190 WAC. "Critical areas" are wetland areas, aquifer recharge areas, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.

B. The purpose of these local regulations is to protect the environmentally sensitive resources of Shelton by establishing minimum standards for development of properties which contain or adjoin environmentally sensitive features and thus protect the public health, safety and welfare in regard to critical areas. The city is classifying all required categories of critical areas throughout the city and implementing development regulations to address these areas through these chapters. These standards serve to preclude land uses and developments which are incompatible with critical areas by:

1. Protecting the public from personal injury, loss of life or property damage due to flooding, erosion, landslides, seismic events, or soil subsidence;
2. Protecting against publicly financed expenditures to address improper use or improper management of critical areas;
3. Preventing degradation of the natural environment;
4. Protecting unique, fragile, and valuable elements of the environment;
5. Including the best available science in developing policies and development regulations to protect the functions and values of critical areas;
6. Giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries;
7. Alerting property owners, potential buyers or lessees, appraisers, assessors, and others to the existence of and the development limitations of critical areas;
8. Providing city officials with sufficient information to adequately protect critical areas when approving, conditioning or denying public or private development proposals;
9. Meeting the requirements of the National Flood Insurance Program and maintain Shelton as an eligible community for federal flood insurance benefits. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.020 Applicability.**

This chapter establishes designations and regulations for the protection of all properties which are critical areas. Properties listed, identified, designated, classified or rated as critical areas are those so designated on the resource maps referenced in this chapter, or by separate studies which indicate that all or portions of a particular area or specific site are environmentally sensitive or critical areas. A site-specific analysis which indicates that any element regulated by this chapter is present will result in a property being classified as an environmentally sensitive critical area. Land uses or developments proposed on or adjacent to sites which are critical areas shall comply with the provisions of this chapter. "Critical areas" are wetlands, frequently flooded areas, critical aquifer recharge areas, geologically hazardous areas, and critical fish and wildlife habitat conservation areas. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.030 Definitions.**

Definitions of terms used in this chapter are:

"Accessory structure" means a structure that is incidental and subordinate to a primary use. Barns, garages, storage sheds, and similar structures are examples.

"Activity" means human activity associated with the use of land or resources.



“Adaptive management” means using scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. Management policy may be adapted based on a periodic review of new information.

“Agricultural activities” means those activities directly pertaining to the production of crops or livestock including, but not limited to, cultivation, harvest, grazing, animal waste storage and disposal, fertilization, the operation and maintenance of farm and stock ponds or drainage ditches irrigation systems, canals, and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Activities that bring an area into agricultural use are not agricultural activities.

“Agricultural land” is land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, or animal products, or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and/or lands that have been designated as capable of producing food and fiber, which have not been developed for urban density housing, business, or other uses incompatible with agricultural activity.

“Alluvial fan” means a fan-shaped deposit of sediment and organic debris formed where a stream flows or has flowed out of a mountainous upland onto a level plain or valley floor because of a sudden change in sediment transport capacity (e.g., significant change in slope or confinement).

“Alluvium” is a general term for clay, silt, sand, gravel, or similar other unconsolidated detrital materials, deposited during comparatively recent geologic time by a stream or other body of running water, as a sorted or semi-sorted sediment in the bed of the stream or on its floodplain or delta.

“Alteration” means any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing (vegetation), draining, construction, compaction, excavation, or any other activity that changes the character of the critical area.

“Anadromous fish” means fish species that spend most of their lifecycle in salt water, but return to freshwater to reproduce.

“Aquifer” means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs (Chapter 173-160 WAC).

“Aquifer susceptibility” means the ease with which contaminants can move from the land surface to the aquifer based solely on the types of surface and subsurface materials in the area. Susceptibility usually defines the rate at which a contaminant will reach an aquifer unimpeded by chemical interactions with the vadose zone media.

“Aquifer vulnerability” is the combined effect of susceptibility to contamination and the presence of potential contaminants.

“Base flood” is a flood event having a one percent chance of being equaled or exceeded in any given year, also referred to as the one-hundred-year flood. Designations of base flood areas on flood insurance map(s) always include the letters A (zone subject to flooding during a one-hundred-year flood, but less so than V zones) or V (zone subject to the highest flows, wave action, and erosion during a one-hundred-year flood).

“Bedrock” is a general term for rock, typically hard, consolidated geologic material that underlies soil or other unconsolidated, superficial material or is exposed at the surface.

“Best available science” means information from research, inventory, monitoring, surveys, modeling, synthesis, expert opinion, and assessment that is used to designate, protect, or restore critical areas. As defined by WAC 365-195-900 through 365-195-925, best available science is derived from a process that includes peer-reviewed literature, standard methods, logical conclusions and reasonable inferences, quantitative analysis, and documented references to produce reliable information.

“Best management practices” means conservation practices or systems of practices and management measures that reflect the current scientific and technical consensus on the best or most effective means of addressing adverse effects upon a resource.

“Buffer” means the area adjacent to the outer boundaries of a critical area, such as wetlands, habitat conservation (streams, marine shorelines habitat areas), and/or landslide hazard areas, that provides an area for related ecological functions to take place and/or separates and protects critical areas from adverse impacts associated with adjacent land uses.

“Channel migration zone” means the area along a river or stream within which the channel can reasonably be expected to migrate over time as a result of normally occurring processes. It encompasses that area of current and historic lateral stream channel movement that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion.

“City” means the city of Shelton, Washington.

“Clearing” means the removal of vegetation or plant cover by manual, chemical, or mechanical means. Clearing includes, but is not limited to, actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, uprooting, or burning.

“Compensatory mitigation” means a mitigation project for the purpose of replacing, at an equivalent or greater level, unavoidable critical area and buffer impacts that remain after all appropriate and practicable avoidance and minimization measures have been implemented. Compensatory mitigation includes, but is not limited to, wetland creation, restoration, enhancement, and preservation; stream restoration and relocation, rehabilitation; and buffer enhancement.

“Conservation” means the prudent management of rivers, streams, wetlands, wildlife and other environmental resources in order to preserve and protect them. This includes the careful utilization of natural resources in order to prevent depletion or harm to the environment.

“Conservation easement” means a legal agreement that the property owner enters into to restrict uses of the land for purposes of natural resources conservation. 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.

“Contaminant” means any chemical, physical, biological, or radiological substance that does not occur naturally in groundwater, air, or soil or that occurs at concentrations greater than those in the natural levels (see also Chapter 173-200 WAC).

“Critical aquifer recharge area” means areas designated by WAC 365-190-080(2) that are determined to have a critical recharging effect on aquifers (i.e., maintain the quality and quantity of water) used for potable water as defined by WAC 365-190-030(2). (Regulated in Chapter 21.66.)

“Critical area study or report” means a report prepared by a qualified professional or qualified consultant based on best available science, and the specific methods and standards for technical study required for each applicable critical area. Geotechnical reports and hydrogeological reports are critical area reports specific to geologically hazardous areas and critical aquifer recharge areas, respectively.

“Critical area tract” means land held in an open undeveloped condition with preservation of native vegetation and other natural features in perpetuity for the protection of critical areas.

Critical Areas. The following areas as required in this chapter shall be regarded as critical areas:

1. Critical aquifer recharge areas (regulated in Chapter 21.66).
2. Wetlands.
3. Geologically hazardous areas.



4. Frequently flooded areas.
5. Fish and wildlife habitat conservation areas.

“Critical facilities” means buildings and other structures that are intended to remain operational in the event of extreme environmental loading from flood, wind, snow or earthquakes pursuant to the International Building Code (IBC), 2003 Edition. These include but are not limited to:

1. Buildings and other structures that represent a substantial hazard to human life in the event of failure including, but not limited to:
  - a. Buildings and other structures where more than fifty people congregate in one area;
  - b. Buildings and other structures with elementary school, secondary school or day care facilities with an occupant load greater than fifty;
  - c. Buildings and other structures with an occupant load greater than fifty for colleges or adult education facilities;
  - d. Health care facilities with an occupant load of fifty or more resident patients but not having surgery or emergency treatment facilities;
  - e. Jails and detention facilities;
  - f. Any other occupancy with an occupant load greater than fifty;
  - g. Power generating stations, water treatment for potable water, waste water treatment facilities and other public utility facilities not included in subsection 2 of this definition;
  - h. Buildings and structures not included in subsection 2 of this definition containing sufficient quantities of toxic or explosive substances to be dangerous to the public if released.
2. Buildings and other structures designed as essential facilities including but not limited to:
  - a. Hospitals and other health care facilities having surgery or emergency treatment facilities;
  - b. Fire, rescue and police stations and emergency vehicle garages;
  - c. Designated earthquake, hurricane or other emergency shelters;
  - d. Designated emergency preparedness, communication, and operation centers and other facilities required for emergency response;
  - e. Structures containing highly toxic materials as defined by IBC Section 307 where the quantity of the material exceeds the maximum allowable quantities of IBC Table 307.7(2);
  - f. Aviation control towers, air traffic control centers and emergency aircraft hangars;
  - g. Buildings and other structures having critical national defense functions;
  - h. Water treatment facilities required to maintain water pressure for fire suppression;
  - i. Power-generating stations and other public utility facilities required as emergency backup facilities for structures listed above.

“Critical habitat” means habitat areas with which endangered, threatened, sensitive or monitored plant, fish, or wildlife species have a primary association (e.g., feeding, breeding, rearing of young, migrating). Such areas are identified herein with reference to lists, categories, and definitions promulgated by the Washington Department of Fish and Wildlife as identified in WAC 232-12-011 or 232-12-014; in the priority habitat and species (PHS)

program of the Department of Fish and Wildlife; or by rules and regulations adopted by the U.S. Fish and Wildlife Service, National Marine Fisheries Service, or other agency with jurisdiction for such designations.

“Debris flow” means a moving mass of rock fragments, soil, and mud; more than half of the particles being larger than sand size; a general term that describes a mass movement of sediment mixed with water and air that flows readily on low slopes.

“Debris torrent” means a violent and rushing mass of water, logs, boulders and other debris.

“Deepwater habitats” means permanently flooded lands lying below the deepwater boundary of wetlands. Deepwater habitats include environments where surface water is permanent and often deep, so that water, rather than air, is the principal medium in which the dominant organisms live. The boundary between wetland and deepwater habitat in the marine and estuarine systems coincides with the elevation of the extreme low water of spring tide; permanently flooded areas are considered deepwater habitats in these systems. The boundary between wetland and deepwater habitat in the riverine and lacustrine systems lies at a depth of two meters (six and six-tenths feet) below low water; however, if emergent vegetation, shrubs, or trees grow beyond this depth at any time, their deepwater edge is the boundary.

“Development” means any activity that results in a change of use or modification of land or its resource. These activities include but are not limited to: clearing of vegetation; filling, grading and other topographic modification; building construction or modification; construction of roads, trails, utilities and other facilities.

“Director” means the director of the city of Shelton department of community and economic development. Functions of the director as defined by this chapter may be assigned to other city of Shelton staff persons at the discretion of the director.

“Drainage ditch” means an artificially created watercourse constructed to drain surface or groundwater. Ditches are graded (manmade) channels installed to collect and convey runoff from fields and roadways. Ditches may include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse. Ditched channels that support fish are considered to be streams.

“Emergency” refers to an unanticipated and imminent threat to public health, safety or the environment. Emergency construction does not include development of new permanent protective structures where none previously existed. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

“Emergent wetland” means a wetland with at least thirty percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative strata.

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

“Erosion” means a process whereby wind, rain, water and other natural agents mobilize, and transport, and deposit soil particles.

“Erosion hazard areas” means lands or areas underlain by soils identified by the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS) as having “severe” or “very severe” erosion hazards and areas subject to impacts from lateral erosion related to moving water such as river channel migration and shoreline retreat.

“Essential public facility” means those facilities that are typically difficult to site, such as airports, state education facilities, and state or regional transportation facilities, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, and group homes.

“Estuary” means the zero-gradient sector of a stream where it flows into a standing body of water together with associated natural wetlands; tidal flows reverse flow in the wetland twice daily, determining its upstream limit. It is characterized by low bank channels (distributaries) branching off the main stream to form a broad, near-level delta; bank, bed and delta materials are silt and clay, banks are stable, vegetation ranges from marsh to forest, and water is usually brackish due to daily mixing and layering of fresh and salt water.

“Feasible alternative” means a course of action that can include uses, design, construction techniques, and other features on a site or alternative sites that are reasonably capable of being carried out after taking into consideration existing technology and logistics and that has less impact to critical areas. Cost is one factor in determining whether an action is capable of being carried out.

“Fen” means a mineral-rich wetland formed in peat that has a neutral to alkaline pH. Fens are wholly or partly covered with water and dominated by grass-like plants, grasses, and sedges.

“Fill material” means any solid or semi-solid material, including rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure, that when placed, changes the grade or elevation of the receiving site.

“Filling” means the act of transporting or placing by any manual or mechanical means fill material from, to, or on any soil surface, including temporary stockpiling of fill material.

“Fish and wildlife habitat conservation areas” are areas important for maintaining species in suitable habitats within their natural geographic distribution so that isolated populations are not created.

“Fish habitat” means a complex of physical, chemical, and biological conditions that provide the life supporting and reproductive needs of a species or life stage of fish. Although the habitat requirements of a species depend on its age and activity, the basic components of fish habitat in rivers, streams, ponds, lakes, estuaries, marine waters, and nearshore areas include, but are not limited to, the following:

1. Clean water and appropriate temperatures for spawning, rearing, and holding;
2. Adequate water depth and velocity for migrating, spawning, rearing, and holding, including off-channel habitat;
3. Abundance of bank and in-stream structures to provide hiding and resting areas and stabilize stream banks and beds;
4. Appropriate substrates for spawning and embryonic development. For stream and lake dwelling fishes, substrates range from sands and gravel to rooted vegetation or submerged rocks and logs. Generally, substrates must be relatively stable and free of silts or fine sand;
5. Presence of riparian vegetation as defined in this section. Riparian vegetation creates a transition zone, which provides shade, and food sources of aquatic and terrestrial insects for fish;
6. Unimpeded passage (i.e., due to suitable gradient and lack of barriers) for upstream and downstream migrating juveniles and adults.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters and/or the unusual and rapid accumulation of runoff of surface waters from any source.

“Floodplain” means the total land area adjoining a river, stream, watercourse, or lake subject to inundation by the base flood.

“Floodway” means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the surface water elevation more than one foot. Also known as the “zero rise floodway.” Note: This definition of “floodway” is not applicable to the use of “floodway” in RCW 90.58.030(2).



"Forested wetland" means a wetland with at least thirty percent of the surface area covered by woody vegetation greater than twenty feet in height, excluding monotypic stands of red alder or cottonwood that average eight inches in diameter at breast height or less.

"Frequently flooded areas" means lands in the floodplain subject to a one percent or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance and attenuation functions, as determined by the county in accordance with WAC 365-190-080(3). Classifications of frequently flooded areas include, at a minimum, the one-hundred-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

"Function and value" means the beneficial roles served by critical areas and the values people derive from these roles including, but not limited to, water quality protection and enhancement, fish and wildlife habitat, food chain support, flood storage, conveyance and attenuation, groundwater recharge and discharge, erosion control, wave attenuation, protection from hazards, providing historical and archaeological resources, noise and visual screening, open space, and recreation. These beneficial roles are not listed in order of priority.

"Function assessment" or "functions and values assessment" means a set of procedures, applied by a qualified professional, to identify the ecological functions being performed in a wetland or other critical area, usually by determining the presence of certain characteristics, and determining how well the critical area is performing those functions. Function assessments can be qualitative or quantitative and may consider social values potentially provided by the wetland or other critical area. Function assessment methods must be consistent with best available science.

"Functions" means the processes or attributes provided by areas of the landscape (e.g., wetlands, rivers, streams, and riparian areas) including, but not limited to, habitat diversity and food chain support for fish and wildlife, groundwater recharge and discharge, high primary productivity, low flow stream water contribution, sediment stabilization and erosion control, storm and flood water attenuation and flood peak desynchronization, and water quality enhancement through biofiltration and retention of sediments, nutrients, and toxicants. These beneficial roles are not listed in order of priority.

"Game fish" means those species of fish that are classified by the Washington Department of Wildlife as game fish (WAC 232-12-019).

"Geologically hazardous areas" means areas that, because of their susceptibility to erosion, sliding, earthquake, or other geological events, pose unacceptable risks to public health and safety and may not be suited to commercial, residential, or industrial development.

"Gradient" means a degree of inclination, or a rate of ascent or descent, of an inclined part of the earth's surface with respect to the horizontal; the steepness of a slope. It is expressed as a ratio (vertical to horizontal), a fraction (such as meters/kilometers or feet/miles), a percentage (of horizontal distance), or an angle (in degrees).

"Grading" means any excavating or filling of the earth's surface or combination thereof.

"Groundwater" means all water that exists beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves (Chapter 90.44 RCW).

"Groundwater management area" means a specific geographic area or subarea designated pursuant to Chapter 173-100 WAC for which a groundwater management program is required.

"Groundwater management program" means a comprehensive program designed to protect groundwater quality, to assure groundwater quantity, and to provide for efficient management of water resources while recognizing existing groundwater rights and meeting future needs consistent with local and state objectives, policies and authorities within a designated groundwater management area or subarea and developed pursuant to Chapter 173-100 WAC.

"Growing season" means the portion of the year when soil temperatures are above biologic zero (forty-one degrees Fahrenheit).

“Growth Management Act” means Chapters 36.70A and 36.70B RCW, as amended.

“Hazard tree” means any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property or causing personal injury.

“Hazardous substance” means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC 173-303-090 or 173-303-100.

“High intensity land use” means land use that includes the following uses or activities: commercial, urban, industrial, institutional, retail sales, residential (more than one unit/acre), high intensity new agriculture (dairies, nurseries, greenhouses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), high intensity recreation (golf courses, ball fields), hobby farms.

“Hydraulic project approval (HPA)” means a permit issued by the State Department of Fish and Wildlife for modifications to waters of the state in accordance with Chapter 77.55 RCW.

“Hydric soil” means a soil that is saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part. The presence of hydric soil shall be determined following the methods described in the Washington State Wetland Identification and Delineation Manual (RCW 90.58.380).

“Hydrologic soil groups” means soils grouped according to their runoff-producing characteristics under similar storm and cover conditions. Properties that influence runoff potential are depth to seasonally high water table, intake rate and permeability after prolonged wetting, and depth to a low permeable layer. Hydrologic soil groups are normally used in equations that estimate runoff from rainfall, but can be used to estimate a rate of water transmission in soil. There are four hydrologic soil groups:

1. Low runoff potential and a high rate of infiltration potential;
2. Moderate infiltration potential and a moderate rate of runoff potential;
3. Slow infiltration potential and a moderate to high rate of runoff potential; and
4. High runoff potential and very slow infiltration and water transmission rates.

“Hydrophytic vegetation” means macrophytic plant life growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

“Hyporheic zone” means the saturated zone located beneath and adjacent to streams that contain some proportion of surface water from the surface channel. The hyporheic zone serves as a filter for nutrients, as a site for macroinvertebrate production important in fish nutrition and provides other functions related to maintaining water quality.

“Impervious surface” means a hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or that causes water to run off the surface in greater quantities or at an increased rate of flow compared to natural conditions prior to development. Common impervious surfaces may include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater. Impervious surfaces do not include surface created through proven low impact development techniques.

“Infiltration” means the downward entry of water into the immediate surface of soil.

“In-kind compensation” means to replace critical areas with substitute areas whose characteristics and functions mirror those destroyed or degraded by a regulated activity.

“Intertidal zone” means the substratum from extreme low water of spring tides to the upper limit of spray or influence from ocean derived salts. It includes areas that are sometimes submerged and sometimes exposed to air, mud and sand flats, rocky shores, salt marshes, and some terrestrial areas where salt influences are present.

“Invasive species” means a species that is (1) non-native (or alien) to the Puget Sound lowlands and the city of Shelton urban growth area, and (2) whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Invasive species can be plants, animals, and other organisms (e.g., microbes). Human actions are the primary means of invasive species introductions.

“Lake” means a naturally or artificially created body of deep (generally greater than six and six-tenths feet) open water that persists throughout the year. A lake is larger than a pond, greater than one acre in size, equal to or greater than six and six-tenths feet in depth, and has less than thirty percent aerial coverage by trees, shrubs, or persistent emergent vegetation. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake’s ordinary high water mark to the stream where the stream enters the lake.

“Landfill” means a disposal facility or part of a facility at which solid waste and/or demolition waste is permanently placed in or on land including facilities that use solid waste as a component of fill. In addition, landfill includes all related land and structures and other improvements on the land used for the disposal of solid waste, pursuant to Chapter 173-351 WAC.

“Landslide” is a general term covering a wide variety of mass movement landforms and processes involving the downslope transport, under gravitational influence of soil and rock material en masse; included are debris flows, debris avalanches, earthflows, mudflows, slumps, mudslides, rock slides, and rock falls.

“Landslide hazard areas” means areas that, due to a combination of site conditions like slope inclination and relative soil permeability, are susceptible to mass wasting.

“Low intensity land use” means land use that includes the following uses or activities: forestry (cutting of trees only), low intensity open space (such as passive recreation and natural resources preservation), unpaved trails.

“Maintenance and repair” means work required to keep existing improvements in their existing operational state. This does not include any modification that changes the character, scope, or size of the original structure, facility, utility or improved area.

“Major alteration or renovation” means the alteration or renovation of any structure or associated improvements within a critical area or buffer that results in an expansion of floor area of five hundred square feet or more, or more than ten percent and less than fifty percent, whichever is greater; or the expansion of impervious surface by more than one thousand square feet, or more than ten percent and less than fifty percent, whichever is greater; or remodeling or renovation that is greater than fifty percent but less than one hundred percent of the value of the structures or improvements, excluding plumbing, electrical and mechanical systems.

“Mass wasting” means downslope movement of soil and rock material by gravity. This includes soil creep, erosion, and various types of landslides, not including bed load associated with natural stream sediment transport dynamics.

“Mature forested wetland” means a wetland with an overstory dominated by mature trees having a wetland indicator status of facultative (FAC), facultative-wet (FACW), or obligate (OBL). Mature trees are considered to be at least twenty-one inches in diameter at breast height.

“Mean annual flow” means the average flow of a river or stream (measured in cubic feet per second) from measurements taken throughout the year. If available, flow data for the previous ten years should be used in determining mean annual flow.

“Minor alteration or renovation” means alteration or renovation of any structure or associated improvements within a critical area or buffer that results in an expansion of floor area of less than five hundred square feet, or ten percent, whichever is less; or the expansion of impervious surface by less than one thousand square feet, or ten percent, whichever is less; or remodeling or renovation that is less than fifty percent of the value of the structure or improvements, excluding plumbing, electrical and mechanical systems.



“Mitigation” means individual actions that may include a combination of the following measures, listed in order of preference:

1. Avoiding an impact altogether by not taking a certain action or parts of actions;
2. Minimizing impacts by limiting the degree or magnitude of an action and its implementation;
3. Rectifying impacts by repairing, rehabilitating, or restoring the affected environment; such as repairing damage done to a critical area resource such as stream or wetland after it is affected by a project;
4. Reducing or eliminating an impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for an impact by replacing or providing substitute resources or environments; and
6. Monitoring the mitigation and taking remedial action when necessary.

“Mitigation bank” means a site where wetlands or similar habitats are restored, created, enhanced, or, in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to aquatic resources.

“Mitigation plan” means a detailed plan indicating actions necessary to mitigate adverse impacts to critical areas.

“Moderate intensity land use” means land use that includes the following uses or activities: residential (one unit/acre or less), moderate intensity open space (parks), moderate intensity new agriculture (orchards and hay fields), plant nurseries, paved trails, and building of logging roads.

“Monitoring” means evaluating the impacts of development proposals over time on the biological, hydrological, pedological, and/or geological elements of such systems and/or assessing the performance of required mitigation measures throughout the collection and analysis of data by various methods for the purpose of understanding and documenting changes in natural ecosystems and features, and includes gathering baseline data.

“Native vegetation” means plant species that are indigenous to the Puget Sound lowland and the city of Shelton urban growth area. For the purposes of establishment of native vegetation within buffer areas, native vegetation shall include, but not be limited to, the following:

1. Native evergreen trees: Douglas fir, *Pseudotsuga menziesii*; grand fir, *Abies grandis*; Pacific madrone, *Arbutus menziesii*; western red cedar, *Thuja plicata*; western hemlock, *Tsuga heterophylla*.
2. Native deciduous trees: Big leaf maple, *Acer macrophyllum*; beaked hazelnut, *Corylus cornuta*; black cottonwood, *Populus balsamifera*; bitter cherry, *Prunus emarginata*; black hawthorn, *Crataegus douglasii*; Oregon ash, *Fraxinus latifolia*; Oregon white oak, *Quercus garryana*; Pacific wax-myrtle, *Myrica californica*; red alder, *Alnus rubra*; vine maple, *Acer circinatum*; western crabapple, *Malus fusca*; Hooker’s willow, *Salix hookeriana*; Pacific willow, *Salix lucida*; Scouler’s willow, *Salix scouleriana*; Sitka willow, *Salix sitchensis*.
3. Native understory: Black twinberry, *Lonicera involucrata*; blue elderberry, *Sambucus cerulea*; red elderberry, *Sambucus racemosa*; evergreen huckleberry, *Vaccinium ovatum*; red huckleberry, *Vaccinium parvifolium*; Indian plum, *Oemleria cerasiformis*; oceanspray, *Holodiscus discolor*; Oregon grape, *Mahonia (Berberis) aquifolium*; red osier dogwood, *Cornus sericea*; Pacific ninebark, *Physocarpus capitatus*; Pacific rhododendron, *Rhododendron macrophyllum*; straggly gooseberry, *Ribes divaricatum*; red-flowering currant, *Ribes sanguineum*; bald-hip rose, *Rosa gymnocarpa*; Nootka rose, *Rosa nutkana*; peafruit (swamp) rose, *Rosa pisocarpa*; thimbleberry, *Rubus parviflorus*; salal, *Gaultheria shallon*; serviceberry, *Amelanchier alnifolia*; salmonberry, *Rubus spectabilis*; snowberry, *Symphoricarpos albus*; black twinberry, *Lonicera involucrata*.

Choice of plants for a specific site must consider the hydric, shade, aspect and other conditions. Spacing of plants shall depend upon the presence of existing native vegetation and the size of plants installed. Generally plantings shall result in a vegetation community consisting of no more than fifty percent deciduous trees. Tree planting shall

achieve a spacing where new materials are required of ten feet of one-gallon or smaller specimens, fifteen feet with two-gallon specimens; larger sizes shall be spaced according to specimen size. Understory generally should be installed at a spacing of twelve inches for four-inch pots and thirty-six inches for one-gallon specimens.

“Nearshore habitat” means the zone that extends seaward from the marine shoreline to a water depth of approximately twenty meters (sixty-six feet). Nearshore habitat is rich biologically, providing important habitat for a diversity of plant and animal species.

“No net loss” means the maintenance of the aggregate total of ecological functions and values within a geographic area defined in terms of natural processes, such as a watershed or catchment area.

“Off-site mitigation” means to replace critical areas away from the site on which a critical area has been adversely impacted by a regulated activity.

“Ordinary high water mark” means the mark or line on all lakes, rivers, streams and tidal water that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation (RCW 90.58.030(2)(b)).

“Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, state agency or local governmental unit, however designated, or Indian Nation or tribe.

“Planned unit development (PUD)” means one or a group of specified uses, such as residential, resort, commercial or industrial, to be planned and constructed as a unit. Zoning or subdivision regulations with respect to lot size, building bulk, etc., may be varied to allow design innovations and special features in exchange for additional and/or superior site amenities or community benefits.

“Pond” means an open body of water, generally equal to or greater than six and six-tenths feet deep, that persists throughout the year and occurs in a depression of land or expanded part of a stream and has less than thirty percent aerial coverage by trees, shrubs, or persistent emergent vegetation. Ponds are generally smaller than lakes. Farm ponds are excluded from this definition. Beaver ponds that are two years old or less are excluded from this definition.

“Potable” means water that is suitable for drinking by the public (Chapter 246-290 WAC).

“Preservation” means actions taken to ensure the permanent protection of existing, ecologically important critical areas and/or buffers that the county has deemed worthy of long-term protection.

“Primary association” means the use of a habitat area by a listed or priority species for breeding/spawning, rearing young, resting, roosting, feeding, foraging, and/or migrating on a frequent and/or regular basis during the appropriate season(s) as well as habitats that are used less frequently/regularly but which provide for essential life cycle functions such as breeding/nesting/spawning.

“Priority habitat” means 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; refuge; 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 nonpriority fish and wildlife (WAC 173-26-020(24)).

“Priority species” means wildlife species of concern due to their population status and their sensitivity to habitat alteration, as defined by the Washington Department of Fish and Wildlife.



“Project” means any proposed or existing activity that results in “development,” as defined in this section.

“Project permit” or “project approval” means any land use or environmental permit or approval required by the city of Shelton, but not limited to, building permits, subdivisions, binding site plan, planned unit developments, conditional uses, shoreline substantial development permits, variance, site plan review, permits or approvals authorized by a comprehensive plan or subarea plan.

“Qualified professional” or “qualified consultant” means a person with experience and training with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, soil science, engineering, environmental studies, fisheries, geology, geomorphology or related field, and related work experience and meet the following criteria:

1. A qualified professional for wetlands must have a degree in biology, ecology, soil science, botany, or a closely related field and a minimum of five years of professional experience in wetland identification and assessment in the Pacific Northwest.
2. A qualified professional for habitat conservation areas must have a degree in wildlife biology, ecology, fisheries, or closely related field and a minimum of five years’ professional experience related to the subject species/habitat type.
3. A qualified professional for geologically hazardous areas must be a professional engineering geologist or geotechnical engineer, licensed in the state of Washington.
4. A qualified professional for critical aquifer recharge areas means a Washington State licensed hydrogeologist, geologist, or engineer.

“Recharge” means the process involved in the absorption and addition of water from the unsaturated zone to groundwater.

“Re-establishment” means measures taken to intentionally restore an altered or damaged natural feature or process including:

1. Active steps taken to restore damaged wetlands, streams, protected habitat, and/or their buffers to the functioning condition that existed prior to an unauthorized alteration;
2. Actions performed to re-establish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or other events; and
3. Restoration can include restoration of wetland functions and values on a site where wetlands previously existed, but are no longer present due to lack of water or hydric soils.

“Rehabilitation” means a type of restoration action that restores a critical area to its original form or type such as restoring a wetland to its original hydro-geomorphic class.

“Relative density” is a method for evaluating the density of trees in relation to the theoretical maximum density for trees of the same size and species. It is preferable to a simple density (trees/acre) because it is a more accurate measure of occupied growing space and suppression mortality. Relative density equals the basal area of all trees in the stand divided by the square root of the quadratic mean diameter.

“Repair” or “maintenance” means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

“Resident fish” means a fish species that completes all stages of its life cycle within freshwater and frequently within a local area.

Restoration. See “Re-establishment.”

"Rills" means steep-sided channels resulting from accelerated erosion. A rill is generally a few inches deep and not wide enough to be an obstacle to farm machinery. Rill erosion tends to occur on slopes, particularly steep slopes with poor vegetative cover.

"Riparian corridor" or "riparian zone" means the area adjacent to a water body (stream, lake or marine water) that contains vegetation that influences the aquatic ecosystem, nearshore area and/or fish and wildlife habitat by providing shade, fine or large woody material, nutrients, organic debris, sediment filtration, and terrestrial insects (prey production). Riparian areas include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., zone of influence). Riparian zones provide important wildlife habitat. They provide sites for foraging, breeding and nesting; cover to escape predators or weather; and corridors that connect different parts of a watershed for dispersal and migration.

"Riparian vegetation" means vegetation that tolerates and/or requires moist conditions and periodic free-flowing water thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilize stream banks, attenuate high water flows, provide wildlife habitat and travel corridors, and provide a source of limbs and other woody debris to terrestrial and aquatic ecosystems, which, in turn, stabilize stream beds.

"Scrub-shrub wetland" means a wetland with at least thirty percent of its surface area covered by woody vegetation less than twenty feet in height as the uppermost strata.

"Seismic hazard areas" means areas that are subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, or soil liquefaction.

"SEPA" is a commonly used acronym for the State Environmental Policy Act.

"Shellfish" means invertebrates of the phyla Arthropoda (class Crustacea), Mollusca (class Pelecypoda) and Echinodermata.

"Shellfish habitat conservation areas" means all public and private tidelands suitable for shellfish, as identified by the Washington Department of Health classification of commercial growing areas, and those recreational harvest areas as identified by the Washington Department of Ecology are designated as shellfish habitat conservation areas pursuant to WAC 365-190-080. Any area that is or has been designated as a shellfish protection district created under Chapter 90.72 RCW is also a shellfish habitat conservation area.

"Shellfish protection district" means a geographic area designated pursuant to RCW Title 90, in response to State Department of Health (DOH) closures or downgrades of a commercial shellfish growing area due to a degradation of water quality as a result of pollution. These areas include the watershed draining to the shellfish beds as part of the shellfish habitat conservation area.

"Shorelands" or "shoreland areas" mean those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes and tidal waters which are subject to the provisions of Chapter 90.58 RCW.

"Shoreline Management Act" and "shoreline" means the planning and regulatory program established in Chapter 90.58 RCW.

"Shoreline master program" means the local planning and regulatory program established in compliance with Chapter 90.58 RCW, and as hereafter amended.

"Shorelines" means all of the water areas of the state as defined in RCW 90.58.030, including reservoirs and their associated shorelands, together with the lands underlying them except:

1. Shorelines of statewide significance;
2. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second (twenty cfs) or less and the wetlands associated with such upstream segments; and

3. Shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

“Shorelines of statewide significance” means those areas defined in RCW 90.58.030(2)(e).

“Shorelines of the state” means the total of all “shorelines,” as defined in RCW 90.58.030(2)(d), and “shorelines of statewide significance” within the state, as defined in RCW 90.58.030(2)(c).

“Single-family development” means the development of a single-family residence permanently installed and served with utilities on a lot of record.

“Site” means any parcel or combination of contiguous parcels, or right-of-way or combination of contiguous rights-of-way, under the applicant’s ownership or control where the proposed project impacts an environmentally critical area.

“Slope” means:

1. Gradient.
2. The inclined surface of any part of the earth’s surface, delineated by establishing its toe and top and measured by averaging the inclination over at least ten feet of vertical relief.

“Soil” means all unconsolidated materials above bedrock described in the Soil Conservation Service Classification System or by the Unified Soils Classification System.

“Sphagnum bog” means a type of wetland dominated by mosses that form peat. Sphagnum bogs are very acidic, nutrient poor systems, fed by precipitation rather than surface inflow, with specially adapted plant communities.

“Streams” are those areas where surface waters produce a defined channel or bed. A defined channel or bed is an area that demonstrates clear evidence of the annual passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round. This definition includes drainage ditches or other artificial watercourses where natural streams existed prior to human alteration, and/or the waterway is used by anadromous or resident salmonid or other fish populations or flows directly into shellfish habitat conservation areas.

“Structure” means a permanent or temporary building or edifice of any kind, or any piece of work artificially built up or composed of parts joined together in some definite matter, whether installed on, above, or below the surface of the ground or water, except for vessels.

“Substantial reconstruction” means the alteration or renovation that results in an expansion of floor area of more than fifty percent, or the expansion of impervious surface by more than fifty percent, or remodeling or renovation that exceeds one hundred percent of the value of the structures or other improvements, excluding plumbing, electrical and mechanical systems. Such substantial reconstruction shall be considered the same as new construction and shall fully comply with the provisions of this code.

“Toe” means the lowest part of a slope or cliff; the downslope end of an alluvial fan, landslide, etc.

“Top” means the top of a slope; or in this chapter it may be used as the highest point of contact above a landslide hazard area.

“Unavoidable adverse impact” means adverse impacts that remain after all appropriate avoidance and minimization measures have been implemented.

“Utilities” means all lines and facilities used to distribute, collect, transmit, or control electrical power, natural gas, petroleum products, information (telecommunications), water, and sewage.

“Volcanic hazard areas” means geologically hazardous areas that are subject to pyroclastic flows, lava flows, debris avalanche, or inundation by debris flows, mudflows, or related flooding resulting from volcanic activity.



“Watershed” means a geographic region within which water drains into a particular river, stream or body of water.

“Watershed improvement district” means a special district established pursuant to Chapter 85.38 RCW.

“Well head protection area” means the area (surface and subsurface) managed to protect groundwater based public water supplies.

“Wet meadow” means palustrine emergent wetlands, typically having disturbed soils, vegetation, or hydrology.

“Wet season” means the period generally between November 1st and March 30th of most years when soils are wet and prone to instability. The specific beginning and end of the wet season can vary from year to year depending on weather conditions.

“Wetland” means areas defined pursuant to RCW 36.70A.030 that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, retention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands include those artificial wetlands intentionally created to mitigate wetland impacts.

“Wetland buffer” means a designated area contiguous or adjacent to a wetland that is required for the continued maintenance, function, and ecological stability of the wetland.

“Wetland class” means the general appearance of the wetland based on the dominant vegetative life form or the physiography and composition of the substrate. Multiple classes can exist in a single wetland. Types of wetland classes include forest, scrub/shrub, emergent, and open water.

“Wetland delineation” means the precise determination of wetland boundaries in the field according to the application of specific methodology as described in the 1997 Washington State Wetland Delineation Manual or 1987 Edition, as amended, Corps of Engineers Wetlands Delineation Manual and the mapping thereof approved federal wetland delineation manual and applicable regional supplements, as amended.

“Wetland edge” means the boundary of a wetland as delineated based on the definitions contained in this chapter.

Wetland Enhancement. See “Enhancement.”

“Wetland mitigation bank” means a site where wetlands and buffers are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

“Wetland mosaic” means two or more wetlands that are less than one hundred feet apart such that within the outer boundaries of the area delineated as wetland and the associated upland between the wetlands more than fifty percent of the total area is comprised of wetlands and open water as defined by the OHWM.

Wetland Restoration. See “Mitigation” and “Re-establishment.”

“Windthrow” means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

“Wood waste” means solid waste consisting of wood pieces or particles generated as a by-product or waste from the manufacturing of wood products, handling and storage of raw materials and trees and stumps. This includes, but is not limited to, sawdust, chips, shavings, bark, pulp, log fuel, and log sort yard waste, but does not include wood pieces or particles containing chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenate. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.040 Critical area maps.**

Those documents and maps which are referenced in this chapter for designation of critical areas are resources for the identification of the probable location, extent and classification of critical areas. Such information may be used by the director as a basis for applying the provisions of this code, including requiring field investigation and special reports. In the event of a conflict between information contained in the critical area maps and information resulting from a field investigation, the latter shall prevail. Preparation and maintenance of such documents and maps shall not create liability on the part of the city of Shelton or any officer or employee thereof for any damages that result from reliance on said maps. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.050 Multiple designations.**

Where any parcel may be designated as having more than one critical area designation, the development standards for each category of critical area must be met. Where there is conflict between development standards of critical area categories, the most restrictive standards shall apply. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.060 SEPA.**

This chapter is an officially adopted land use policy of the city of Shelton and shall provide an additional basis for analyzing development proposals pursuant to Chapter 43.21C RCW. Adopted critical area maps, pursuant to Section 21.64.040, are declared sensitive areas under provisions of WAC 197-11-908 and Chapter 21.20 of this code. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.070 Permitted uses.**

A. Uses permitted on properties classified as critical areas shall be the same as those permitted in the zoning and shoreline master program district which applies to the subject property, subject to the specific provisions of this code where more restrictive. Each use shall be evaluated in accordance with the review process required for the proposed use in the underlying zone in conjunction with the requirements of this chapter, as well as state and federal regulations.

B. Altering critical areas and/or buffers related to wetlands, streams, and geological hazard areas is prohibited except when:

1. Alteration is approved pursuant to the reasonable use or variance provisions of Section 21.64.083;
2. Alteration is necessary to accommodate an essential public facility or public utility where no feasible alternative location will accommodate the facility and the facility is located, designed, and constructed to minimize, mitigate and where possible avoid critical area disturbance to the maximum extent feasible;
3. Alteration is part of an essential element of an activity allowed by this chapter and all feasible measures to avoid and minimize impacts have been employed. Such feasible measures shall include but not be limited to clustering where permitted by zoning and as appropriate to protect critical areas and buffers. The purposes of clustering shall be to minimize adverse effects of development on critical area functions and values, minimize land clearing, maintain soil stability, preserve native vegetation, maintain hydrology, and mitigate risk to life and property; or
4. Alteration is associated with an activity enumerated in Section 21.64.071 that has negligible impact on critical areas.

C. Land that is located wholly within a critical area or buffer may not be subdivided for purposes of creating buildable parcels. Land that is located partially within a critical area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of the critical area or buffer with provision for drainage, erosion control, vegetation maintenance and related features that will not adversely affect the critical area or its buffer. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.071 Allowed activities.**

The following actions and activities are allowed in critical areas as actions with negligible effects on the resource and ecological functions, subject to the standards and criteria provided, and subject to review and approval processes.

A. Emergency actions are those activities necessary to prevent an immediate threat to life, to public health, safety, or welfare, or that pose an immediate risk of damage to private structures or improvements and that require remedial or preventative action in a time frame too short to allow for compliance with the procedural requirements of this chapter.

1. Emergency actions that create an impact on a critical area or its buffer shall be limited to those actions that are required to address the emergency and generally are limited to the actions necessary to remove the immediate threat. Additional actions to permanently address a deficiency generally do not qualify as emergency actions and require full compliance with the procedural requirements of this chapter. Emergency actions also must be carried out in a manner that has the least feasible impact on the critical area or its buffer.

2. The person or agency undertaking emergency action shall notify the director within one working day following commencement of the emergency activity. Within fourteen days, the director shall determine if the action taken was within the scope of the emergency actions allowed in this subsection. If the director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then the enforcement provisions of Section 21.64.090 shall apply.

3. After the emergency, the person or agency undertaking the action shall submit a critical area report to assess effects on critical areas and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for all approvals required by this chapter. Restoration and/or mitigation activities must be initiated within sixty days of the date of the emergency, unless an extension is approved by the director, and completed in a timely manner.

B. Maintenance, operation and/or repair of existing rights-of-way, trails, roads, utilities, buildings and other facilities within critical areas and buffers; provided, that the activity does not further alter, impact, or encroach upon the sensitive area or buffer or further affect the functions of sensitive areas, and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair; and provided further, that:

1. Prior to undertaking such actions, the applicant shall submit a written description of the maintenance activity to the director with all of the following general information:

- a. Type, timing, frequency and sequence of maintenance activity to be conducted;
- b. Type of equipment to be used (hand or mechanical);
- c. Manner in which the equipment will be used; and
- d. Best management practices to be used.

C. Maintenance of existing, lawfully established landscaping and gardens within a regulated critical area or its buffer, including but not limited to mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and planting of ornamental vegetation or indigenous native species to maintain the condition and appearance of such areas as they existed prior to adoption of this code; provided, that native growth protection areas, mitigation sites, or other areas protected via conservation easements or similar restrictive covenants are not covered by this exception.

D. Maintenance, repair or replacement of an existing nonconforming structure pursuant to Section 21.64.088 that does not further alter or increase the impact to the sensitive area or buffer and results in no increased risk to life or property as a result of the proposed modification or replacement.

E. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the existing improved portion of the public right-of-way (road surface, shoulder, sidewalks, and fill slopes) or the improved portion of city-authorized private roadway; provided, that no fill or discharge occurs outside the existing improved area and with appropriate best management practices to control erosion, sedimentation and other potential impacts. Excluded is work within a water body or wetland, including but not limited to culverts or bridge replacement or construction.



F. Utility projects that have minor or short-duration impacts to critical areas and buffers, as determined by the director in accordance with the criteria below, and which do not significantly impact the functions or values of a sensitive area(s); provided, that such projects are constructed with best management practices and appropriate restoration measures are provided. These activities shall not result in the transport of sediment or increased stormwater. Such allowed minor utility projects shall meet the following criteria:

1. There is no practical alternative to the proposed activity with less impact on sensitive areas;
2. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and
3. The activity involves disturbance of less than seventy-five square feet of the sensitive area and/or buffer.

G. Low impact activities such as hiking, canoeing, nature study, photography, fishing, education or scientific research.

H. Public and private pedestrian trails, provided they are subject to the following:

1. The trail surface shall not exceed four feet in width;
2. The trail surface shall consist of gravel or pervious materials, including boardwalks;
3. The trail shall meet all other city requirements including water quality standards;
4. Sensitive area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and
5. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report.

I. The following vegetation removal activities:

1. The removal of the noxious weed species designated by Washington State or the local weed control authority, and the following species, with hand labor and light equipment:
  - a. English ivy (*Hedera helix*);
  - b. Himalayan blackberry (*Rubus discolor*, *R. procerus*);
  - c. Evergreen blackberry (*Rubus laciniatus*);
2. The removal of hazard trees from sensitive areas and buffers that are posing a threat to public safety, or an imminent risk of damage to a permanent structure; provided, that:
  - a. The applicant submits a report from a certified arborist or professional forester that documents the hazard; provided, that the director may waive this requirement for any trees that are clearly dead, or dying, and provides a replanting schedule for the replacement trees;
  - b. Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be removed or converted to wildlife snags;
  - c. If native vegetation is cut or removed from a sensitive area or buffer, it shall be left within the sensitive area or buffer where practicable unless removal is warranted due to safety considerations, the presence of an established disease infestation or other hazard, or because of access or maintenance needs if the area is a utility or access right-of-way;

d. The landowner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (two-to-one) within one year in accordance with an approved restoration plan. Replacement trees shall be species that are native and indigenous to the site and a minimum of one inch in diameter-at-breast height (dbh) for deciduous trees and a minimum of three feet in height for evergreen trees as measured from the top of the root ball; provided, that the director may allow smaller replacement trees with a higher replacement ratio;

e. Hazard trees that constitute an emergency may be removed or pruned by the landowner prior to receiving written approval from the city; provided, that within fourteen days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this chapter;

3. Measures to control a fire or halt the spread of disease or damaging insects consistent with the state Forest Practices Act, Chapter 76.09 RCW; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan.

J. Minor site investigative work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads, removal of native trees or shrubs, or displacement of more than five cubic yards of material. Investigations involving displacement of more than five cubic yards of material, including geotechnical soil borings, groundwater monitoring wells, percolation tests, and similar activities shall require submittal of specific plans and restoration plans. In every case, impacts to the sensitive area shall be minimized and disturbed areas shall be immediately restored.

K. Forest practices governed by a valid forest practices permit granted by the Washington State Department of Natural Resources, except where:

1. The lands have been or are proposed to be converted under a conversion option harvest plan to a use other than commercial forest product production as provided in RCW 76.09.050 and 76.09.240; or
2. On lands which have been platted after January 1, 1960, as provided in RCW 76.09.050 and 76.09.240.

L. Activities undertaken to comply with a United States Environmental Protection Agency superfund related order, or a Washington Department of Ecology order pursuant to the Model Toxics Control Act that specifically preempts local regulations in the findings of the order.

M. Project and facilities for restoration and enhancement of ecological functions of critical areas and related resources may be allowed within critical areas and buffers, upon approval of a restoration and mitigation plan in accordance with the provisions of this chapter, or for restoration of enhancement programs in an adopted shoreline restoration plan pursuant to Chapter 173-26 WAC, a watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a watershed restoration project pursuant to RCW 89.08.460, a salmonid recovery plan, the salmon recovery board habitat project list, or identified by the Washington Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement pursuant to RCW 77.55.290. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.080 Preliminary consultation.**

During the application completeness review period for any subdivision of property, short plat, boundary line adjustment, site plan review, building permit, business license, or any activity requiring city review and/or approval, the property which is the subject of such permit or approval process shall be reviewed by the city for the purpose of identifying the possible presence of a critical area on or adjacent to such property. Where appropriate the city will conduct a preliminary site inspection to confirm the presence of a potential critical area. Within fifteen city business days of the receipt of any such application, the city shall notify the applicant in writing of the possible presence of a critical area and provide consultation, if requested, regarding additional data requirements or methods of compliance with this chapter, including submittal of a critical area study. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.081 Permit processing.**

A. The approval or denial of an activity or modification within a critical area shall be an administrative action of the planning director for actions requiring only a building permit or other permit action requiring only ministerial



action as defined by relevant city codes. The review process will be integrated with the review of the underlying permit. Public notice is required only if required by the underlying permit.

B. If a project requires another permitting action by the city which requires a public hearing consideration of critical areas will be integrated with the underlying permitting process.

C. The director shall perform a critical area review for any application for a development proposal on a site that includes one or more critical areas or would affect critical areas on adjacent lands, unless otherwise provided in this chapter. As part of all development applications, the director shall verify the information submitted by the applicant to:

1. Confirm the nature and type of the critical areas and associated buffers;
2. Evaluate the need for critical area studies or the adequacy of any such studies submitted with the application;
3. Determine whether the development proposal is consistent with these critical area regulations;
4. Determine whether proposed alterations to critical areas are necessary;
5. Determine if the mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety and welfare consistent with the goals, purposes, objectives and requirements of this overlay district.

D. Compliance with the provisions of this chapter does not necessarily constitute compliance with other regulations and permit requirements. Permit applicants are responsible for complying with all federal, state, county, and local regulations that may pertain to a proposed development; provided, that conditions imposed by the city shall be coordinated with the conditions imposed by other agencies to the extent feasible. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.082 Critical area studies.**

An applicant for a development proposal that includes, or is adjacent to, or could adversely impact critical areas or buffers shall submit such studies prepared by a qualified professional as are required by the director to adequately evaluate the proposal and all probable impacts. The study shall be prepared by a qualified professional as defined in Section 21.64.030 and paid for by the applicant.

- A. Waivers. The director may waive the requirement for a critical area study if there is a substantial showing that:
1. The boundaries of the critical area and associated buffers can be reliably determined without a technical study;
  2. There will be no alteration of the critical area or required buffer;
  3. The development proposal will not impact critical areas in a manner contrary to the goals, purposes, objectives and requirements of this chapter;
  4. The criteria and standards required by this chapter are met.
- B. The contents of the critical area study are specified in the following sections of this chapter. The director may require such supplements or amendments to the study as necessary to develop a reasonably comprehensive understanding of the site conditions, potential impacts, and required mitigation.
- C. Independent Review. Based on a review of the information contained in the critical area study and the conditions of the development proposal site, the director may require independent review of any such study. This independent review shall be performed by qualified professional selected by the city and paid for by the applicant. The purpose of such independent review is to assist the city in evaluating the effects on critical areas that may be caused by a development proposal and to facilitate the decision making process. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.083 Reasonable use.**

A. If the application of the regulations in this chapter would deny all reasonable use of the property, development may be allowed consistent with the general purposes of these regulations and the public interest.

B. Reasonable Use Standards. To qualify as a reasonable use, the decision maker must find that proposal is consistent with all of the following criteria:

1. There is no portion of the site under contiguous ownership not subject to critical area regulations where the provisions of this chapter allow reasonable economic use, including agricultural use, forestry use or continuation of legal nonconforming uses;
2. There is no feasible on-site alternative to the proposed use or activities that will provide reasonable economic use, including location on any contiguous parcel that has been under the ownership or control of the applicant since the effective date of this chapter, other allowed uses, continuation of legal nonconforming uses, reduction in size, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to critical areas and associated buffers;
3. The inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and/or creating the condition of lack of use after the effective date of this chapter;
4. All reasonable methods, to avoid or reduce adverse effects on critical area functions and values have been employed, including locating activities as far as possible from critical areas and design that will result in the minimum alteration of critical areas and associated buffers, existing topography, vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions. Where both critical areas and buffer areas are located on a parcel, buffer areas shall be disturbed in preference to the critical area;
5. The project includes compensatory mitigation for unavoidable impacts to critical area and buffers in accordance with the mitigation requirements of this chapter;
6. The proposed activities will not result in adverse effects on endangered or threatened species as listed by the federal government or the state of Washington, or be inconsistent with an adopted recovery plan;
7. The proposed activities will not result in damage to nearby public or private property and no threat to the health or safety of people on or off the site;
8. The proposed activities will not lead to degradation of groundwater or surface water quality and will comply with all state, local and federal laws, including those related sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal.

C. Nonconforming single-family residential lots meeting the criteria of Section 21.64.088(F) shall not be required to meet the criteria of subsections (B)(1), (2) and (5) of this section.

D. An application for a critical areas reasonable use exception shall follow the procedures for a special use permit review pursuant to Chapter 20.46, except that approvals in accordance with subsection C of this section shall be approved by the director in accordance with the approval procedure for the underlying permit.

E. An application for variance to provisions of this code may be considered in accordance with variance provisions in Chapter 20.50. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.084 Density credits.**

A. Critical areas and their buffers may be used in the calculation of allowed density to the extent provided by the zoning code and shoreline master program.

B. Full density as allowed by underlying zoning and minimum residential density goals may not be attained on specific parcels where critical areas impose inherent limitations on development intensity. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.085 Notice on title.**

A. The owner of any property containing critical areas on which a development proposal is approved shall file with the records division of Mason County a notice in a format approved by the director and provide a copy of the filed notice to the Shelton planning department, unless notice is provided on a plat as provided in subsection B of this section. The notice shall:

1. State the presence of the critical area and/or buffer area on the property, and identify that there are limitations and restrictions on uses and actions in or affecting the critical area and/or buffer imposed by this code and by the provisions of the critical areas code and specific conditions of approval. The notice shall indicate that the restrictions run with the land and may be altered only in conjunction with amendment of this chapter or amendment of specific conditions of approval as provided by this chapter.
2. Provide that management of the critical area is required to include, but is not limited to, maintenance or replacement of vegetation to assure the long-term viability of a community of native vegetation, control of invasive plant control, and fulfillment of other conditions of approval.
3. Provide for the right of the public, and specifically the city of Shelton, to enforce the terms of the restrictions through civil infraction or other legal address.
4. If a site plan has been approved indicating the extent of the critical area and buffer and permit conditions, a copy of the site plan together with relevant survey information and permit conditions shall be included in the notice filed.

B. Restrictions on use and development of critical areas buffers and setback areas on plats and short plats shall include the information in subsection A of this section, shall designate the party responsible for maintenance of the critical area, if other than the property owner, and shall place critical areas in tracts or easements as provided below:

1. Designation of separate tracts for critical areas and buffers shall be the preferred method of designation and protection of critical areas in plats to provide for integrated management of the critical area and buffer separately from lots. The tract may be:
  - a. Held in an undivided interest by each owner of a building lot within the development, the ownership of which shall pass with the ownership of the lot. Responsibility for meeting all requirements of preservation and management shall be designated to an incorporated homeowner's association or other legal entity that assures the ownership and protection of the critical area.
  - b. Dedicated to the city of Shelton or other governmental entity qualified to own and manage open space.
  - c. Conveyed to a nonprofit land trust, provided the land may not be thereafter transferred to a private party; and provided, that if the land trust is dissolved or otherwise fails to perform its functions, ownership and responsibility for management shall devolve to an undivided interest by each owner of a building lot within the development, as provided in subsection (B)(1)(a) of this section.
2. The director may allow a critical area and buffer to be placed within a protective easement on a parcel with the responsibility for meeting all requirements of preservation and management placed on the owner of the parcel over which the easement is placed. This means of designation shall be used in cases where the size and the ecological functions of the critical area do not require coordinated management or where formation of an incorporated homeowner's association or other legal entity for management is found to be impractical because of the limited number of lots, or where ownership and management by the city, a qualified special district or a land trust is found to be impractical. This alternative generally will be limited to critical areas and buffers of less than twenty thousand square feet and developments of fewer than ten parcels, or commercial or multifamily development.

C. This notice on title shall not be required for a development proposal by a public agency or public or private utility within a right-of-way or easement for which they do not have fee-simple title.



D. The applicant shall submit proof that the notice, dedication or easement has been filed for public record before the city shall approve any final plat or final site plan for such site. The notice shall run with the land and failure to provide such notice to any purchaser prior to transferring any interest in the property shall be a violation of this section. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.086 Building setbacks.**

A. Buildings and other structures shall be set back a sufficient distance to assure that disturbance to sensitive area vegetation and soils is avoided during construction, maintenance and use.

B. Buildings and other structures shall be set back a distance of ten feet from the edges of all critical area buffers or from the edges of all critical areas if no buffers are required; provided, that the director may modify the building setback based on specific development plans that document that construction techniques, maintenance needs and use will not disturb critical areas or buffer.

C. If slopes adjacent to the buffer for wetlands or water bodies exceed fifteen percent, including slopes created by grading, a swale sufficient to intercept surface water movement shall be installed outside the edge of the buffer.

D. The following facilities and uses are allowed in the building setback:

1. Landscaping, including rockeries not over forty-two inches high, provided construction does not alter the buffer or critical area;
2. Uncovered decks, platforms, porches and similar projections not over forty-two inches high;
3. Building eaves, cornices, chimneys and similar projections in compliance with Chapter 20.36;
4. Impervious surfaces such as driveways, parking lots, roads, and patios; provided, that such surfaces conform to applicable water quality standards and that construction equipment does not enter the buffer or critical area;
5. Clearing and grading consisting of not over forty-two inches of cut or fill. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.087 Mitigation.**

A. Mitigation measures shall be implemented to protect critical areas and buffers from alterations occurring on all or portions of a site being developed. The mitigation measures required below shall be implemented in conjunction with other applicable mitigation requirements outlined in the subsequent sections of this chapter.

B. For purposes of this chapter, "mitigation" means the use of the following actions that are listed in descending order of preference:

1. Avoiding the impact all together by not taking a certain action or parts of an action;
2. Minimizing impact 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 impact;
3. Rectifying the impact by repairing, rehabilitating or restoring the critical areas;
4. Reducing or eliminating the impact over time by prevention and maintenance operations;
5. Compensating for the impact by replacing, enhancing or providing substitute areas and environments and replacing the ecological processes and functions of the resource;
6. Monitoring the impact and taking appropriate corrective measures.

C. Location. Compensatory mitigation shall be provided on-site or off-site in the location that will provide the greatest ecological benefit and have the greatest likelihood of success. Off-site mitigation is preferred close as possible to the impact area and within the same watershed sub-basin as the permitted alteration; provided, that off-

site mitigation may occur within the watershed of a stream flowing into Oakland Bay or Hammersley Inlet and within WRIA 14 upon demonstration through a watershed- or landscape-based analysis that mitigation within an alternative sub-basin of the watershed would have greater ecological benefit. Off-site mitigation sites preference shall be given to sites and restoration activities identified in an adopted shoreline restoration plan pursuant to Chapter 173-26 WAC, a watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a watershed restoration project pursuant to RCW 89.08.460, a salmonid recovery plan, the salmon recovery board habitat project list, or identified by the Washington Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement pursuant to RCW 77.55.290.

D. Mitigation Plan. A mitigation plan shall be required for the design, implementation, maintenance and monitoring of mitigation. A plan shall provide the following, in addition to criteria for the specific critical areas provided below for individual critical areas:

1. A description and evaluation of any critical areas that could be altered by the proposed development, including evaluation of ecological processes and functions based on best available science and detailed field assessment of the affected resources;
2. A description and scaled drawings of the proposed mitigation activities including, but not limited to, clearing, grading/excavation, drainage alterations, planting, invasive plant management, installation of habitat structures, irrigation, and other site treatments;
3. A description of the ecological functions and values that the proposed alteration may affect and of the specific ecological functions and values the proposed mitigation area(s) shall provide;
4. A description of required or recommended mitigation ratios and an assessment of factors that may affect the success of the mitigation program;
5. Specific measurable performance standards that the proposed mitigation action(s) shall achieve together with a description of how the mitigation action(s) will be evaluated and monitored to determine if the performance standards are being met;
6. A description of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates that project performance standards are not being met;
7. Cost estimates for the installation of the mitigation program, monitoring, and maintenance as well as for corrective action if mitigation performance standards are not met.

E. A performance assurance shall be provided to guarantee installation, monitoring and performance of mitigation actions.

1. Performance Surety. The applicant shall post a cash performance bond, letter of credit, or other security acceptable to the city of Shelton in the amount of one hundred twenty-five percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater. The surety shall be based on an itemized cost estimate of the mitigation activity including clearing and grading, plant materials, plant installation, irrigation, weed management, monitoring, and other costs. The conditions of the surety shall be consistent with the purposes of this chapter and the conditions to be fulfilled. In the event of a breach of any condition of any such bond, the city of Shelton may institute an action in a court of competent jurisdiction upon such bond and prosecute the same to judgment and execution. The city of Shelton shall release the bond upon determining that:

- a. All activities, including any required compensatory mitigation, have been completed in compliance with the terms and conditions of the permit and the requirements of this chapter;
- b. Upon the posting by the applicant of a maintenance surety.

2. Maintenance Surety. The city of Shelton shall require the holder of a development permit issued pursuant to this chapter to post a cash performance bond, letter of credit, or other security acceptable to the city of Shelton in an amount and with surety and conditions sufficient to guarantee that structures, improvements and

mitigation required by the permit of by this chapter perform satisfactorily, generally for a period of five years after they have been completed. The city of Shelton shall release the maintenance bond upon determining that performance standards established for evaluating the effectiveness and success of the structures, improvements and/or compensatory mitigation have been satisfactorily met for the required period. For compensation projects, the performance standards shall be those contained in the mitigation plan developed and approved during the permit review process. The maintenance bond applicable to a compensation project shall not be released until the city of Shelton determines that performance standards established for evaluating the effect and success of the project have been met. The director may return up to fifty percent of the surety following the first year of monitoring; provided, that the year one performance standards are met and the risk of subsequent failure is considered low.

3. Depletion, failure, or collection of surety funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, or monitoring.
4. Public development proposals may be relieved from having to comply with the surety requirements of this section if public funds have been committed through a budget process with final approval for mitigation, maintenance, or monitoring.

F. **Mitigation Banking.** The city may approve mitigation banking as a form of compensatory mitigation for wetlands and fish and wildlife habitat conservation area impacts when the provisions of this chapter require mitigation and when it is clearly demonstrated that the use of a mitigation bank will provide equivalent or greater replacement of critical area functions and values when compared to conventional on-site mitigation; provided, that all of the following criteria are met:

1. Mitigation banks shall only be used when they provide significant ecological benefits including long-term conservation of critical areas, important species, habitats and/or habitat linkages, and when they are consistent with the city's comprehensive plan and create a viable alternative to the piecemeal mitigation for individual project impacts to achieve ecosystem-based conservation goals.
2. The mitigation bank shall be established in accordance with the Washington State Draft Mitigation Banking Rule, Chapter 173-700 WAC or as revised, and Chapter 90.84 RCW and the federal mitigation banking guidelines as outlined in the Federal Register, Volume 60, No. 228, November 28, 1995. These guidelines establish the procedural and technical criteria that banks must meet to obtain state and federal certification.
3. Preference shall be given to mitigation banks that implement restoration actions that have been identified in an adopted shoreline restoration plan, watershed planning document prepared and adopted pursuant to Chapter 90.82 RCW, a salmonid recovery plan or project that has been identified on the salmon recovery board habitat project list or by the Washington Department of Fish and Wildlife as essential for fish and wildlife habitat enhancement. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.088 Nonconforming development.**

The following provisions shall apply to lawfully established uses, buildings and/or structures that do not meet the specific standards of this program:

- A. Nonconforming uses shall be governed in accordance with the provisions of the zoning code in Chapter 20.42 or in accordance with the shoreline master program in Section VII.Q, subject to additional provisions in this chapter. Such use may not be altered or expanded except in compliance with standards provided in said codes.
- B. Nonconforming structures, facilities and development damaged by fire or other cause shall be governed in accordance with the provisions of the zoning code in Chapter 20.42 or in accordance with the shoreline master program in Section VII.Q, subject to additional provisions in this chapter.
- C. Minor alteration or renovation shall be defined as alteration or renovation of any structure, or associated improvements, within a critical area or buffer that results in an expansion of floor area of less than five hundred square feet, or ten percent, whichever is less, or the expansion of impervious surface by less than one thousand square feet, or ten percent, whichever is less; or remodeling or renovation that is less than fifty percent of the value



of the structure or improvements, excluding plumbing, electrical and mechanical systems. Minor alteration may require compliance with specific performance standards of this code.

D. Major alteration or renovation shall be defined as the alteration or renovation of any structure, or associated improvements, within a critical area that results in an expansion of floor area of five hundred square feet or more, or more than ten percent and less than fifty percent, whichever is greater; or the expansion of impervious surface by more than one thousand square feet, or of more than ten percent and less than fifty percent, whichever is greater; or remodeling or renovation that is greater than fifty percent and less than one hundred percent of the value of the structures or improvements excluding plumbing, electrical and mechanical systems. Major alteration may require compliance with specific performance standards of this code.

E. Substantial reconstruction shall be defined as the alteration or renovation that results in an expansion of floor area of more than fifty percent, or the expansion of impervious surface by more than fifty percent, or remodeling or renovation that exceeds one hundred percent of the value of the structures or other improvements, excluding plumbing and mechanical systems. Such substantial reconstruction shall be considered the same as new construction and shall fully comply with the provisions of this code.

F. Nonconforming single-family residential lots within a subdivision filed within five years previous to the adoption of provisions of this code that render them nonconforming in compliance with RCW 58.17.170, or other lots or parcels under contiguous ownership and less than twenty thousand square feet in size that are not subject to landslide hazard areas and associated buffers, shall be subject to the following standards, in conformance with the provisions for a reasonable use exception in Section 21.64.083 and in accordance with the following criteria:

1. Nonconforming lots with an area of two thousand square feet or more available for a building area unrestricted by critical areas or buffers shall comply with the standards of this chapter. The "building area" means the entire area that will be disturbed to construct a structure containing an allowed use and normal appurtenances, including parking and landscaping.
2. Nonconforming lots that do not meet the requirement of subsection (F)(1) of this section shall provide the maximum setback and buffer dimension feasible while providing for a building envelope of at least two thousand square feet on the lot. The building area shall generally be located on the portion of the lot farthest from the required critical area or buffer and/or the least sensitive portion of the lot.
3. The area between the structure and the critical area shall be maintained or planted in native trees and understory vegetation. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.089 Administrative rules.**

The director shall have the authority to adopt administrative rules as deemed necessary consistent with the provisions of this chapter and that are necessary for the implementation of critical area regulations. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.090 Enforcement.**

- A. The director or its designee shall have a right to enter upon any property at reasonable times and to make such inspections as are necessary to determine compliance with the provisions of this chapter or the conditions imposed pursuant to this chapter. The city shall make a reasonable effort to locate the owner or persons in charge and notify them of the times and purposes of required entry.
- B. The director is further authorized to take such actions as may be necessary to enforce the provisions of this chapter including but not limited to the civil infraction, abatement and criminal penalties provided in Chapter 20.54.
- C. The city's enactment or enforcement of this chapter shall not be construed for the benefit of any individual person or group of persons other than the general public. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.091 Appeals.**

- A. An aggrieved party may appeal a decision of the city of Shelton granting or denying a permit that is subject to a public notice requirement pursuant to Title 17, 19, or 20 by filing a notice of appeal as provided in the relevant

code and serving notice to the city and any other party to the decision within the time period for appeals provided in the relevant code. The notice of appeal shall contain the following:

1. The name and address of the appealing party;
2. The name and address of counsel of the appellant, if any;
3. Identification of the city's decision at issue, together with a duplicate copy, summary, or brief description of the city's decision;
4. Identification of persons who were parties to the city's decision;
5. Facts to demonstrate that the appellant is entitled to obtain review;
6. The appellant's reasons for believing that relief should be granted; and
7. The request for relief, specifying the type and extent of relief requested.

B. Upon the filing of a timely notice of appeal in compliance with the provisions of subsection A of this section, the appeal decision maker designated in the relevant code shall conduct an open record review hearing of the city's decision, except for permits that have previously been the subject of an open record public hearing, in which case a closed record appeal shall be held. No appeal shall be provided of actions for which the final decision maker is the city council. The provisions of Section 2.36.160 and Title 17 shall apply to the appeal except that the director's interpretation of any of the provisions of this chapter and discretionary decisions shall be given substantial weight.

C. Within ten working days of the conclusion of the hearing, the appeal decision maker shall render a written decision which shall contain findings of fact and conclusions of law supporting the examiner's decision. The decision shall:

1. Affirm the decision; or
2. Reverse the decision and remand said decision back to the appropriate decision maker for further consideration or review.

D. The provisions of Sections 2.36.180 through 2.36.220 shall apply to the decision on the appeal. (Ord. 1921-0518 (part), 2018; Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.095 Frequently flooded areas.**

"Frequently flooded areas" are those same areas regulated by the Flood Damage Prevention Ordinance, Title 18 of this code, and are protected through regulations provided in that title. (Ord. 1689-1206 § 1 (part), 2007)

#### **21.64.100 Wetland designation.**

A. Wetlands are those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Swamps, marshes, bogs, and wet meadows/pastures are examples of wetland. Some riparian areas adjacent to streams are also wetland.

B. Wetlands shall be identified in accordance with the requirements of RCW 36.70A.175 and 90.58.380. Unless otherwise provided for in this chapter, all areas within the city meeting the criteria in the ~~Washington State Wetland Identification and Delineation Manual (Ecology Publication 96-94)~~ approved federal wetland delineation manual and applicable regional supplements, as amended regardless of any formal identification are hereby designated critical areas and are subject to the provisions of this chapter.

C. The approximate location and extent of known or suspected wetlands are shown on the city's critical area maps. Other, unmapped wetlands may exist within the city. These maps are to be used as a guide and do not provide a definitive critical area designation.



D. Wetlands shall be rated based on categories that reflect the functions and values of each wetland. Wetland categories shall be based on the criteria provided in the Washington State Wetland Rating System for Western Washington, revised August 2004 (Ecology Publication No. 04-06-025). These categories are generally defined as follows:

1. Category I Wetlands. Category I wetlands are those wetlands of exceptional value in terms of protecting water quality, storing flood and stormwater, and/or providing habitat for wildlife as indicated by a rating system score of ~~7023~~ points or more. These are wetland communities of infrequent occurrence that often provide documented habitat for critical, threatened or endangered species, and/or have other attributes that are very difficult or impossible to replace if altered.
2. Category II Wetlands. Category II wetlands have significant value based on their function as indicated by a rating system score of between ~~fifty-one~~20 and ~~sixty-nine~~22 points. They do not meet the criteria for Category I rating but occur infrequently and have qualities that are difficult to replace if altered.
3. Category III Wetlands. Category III wetlands have important resource value as indicated by a rating system score of between ~~thirty~~16 and ~~fifty~~19 points.
4. Category IV Wetlands. Category IV wetlands are wetlands of limited resource value as indicated by a rating system score of less than ~~thirty~~16 points. They typically have vegetation of similar age and class, lack special habitat features, and/or are isolated or disconnected from other aquatic systems or high quality upland habitats. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.120 Wetland review and reporting requirements.**

A. The director shall require a site evaluation (field investigation) by a qualified professional to determine whether or not a regulated wetland is present and if so, its relative location in relation to the proposed project area on site. If the director determines that a wetland is more likely than not present, the director shall require a critical area study. If no regulated wetlands are present, then wetland review will be considered complete.

B. A critical area study (wetland assessment study) describes the characteristics of the subject property and adjacent areas. The assessment shall be completed pursuant to Section 21.64.082 and include the following:

1. Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;
2. Determination of the wetland category and wetland buffers;
3. Field identification and delineation of wetland boundaries. For on-site wetlands, the assessment shall include the dominant and subdominant plant species; soil type, color and texture; sources of hydrology (patterns of surface and subsurface water movement, precipitation, etc.), topography, and other pertinent information;
4. Identification of critical areas and buffers within three hundred feet of the site and an estimate of the approximate acreage for each. The assessment of off-site wetlands shall be based on available information and shall not require accessing off-site properties;
5. A detailed description of the effects of the proposed development on wetland and buffer function and value, including the area of direct wetland disturbance; area of buffer reduction or averaging including documentation that functions and values will not be adversely affected by the reduction or averaging; effects of stormwater management; proposed hydrologic alteration including changes to natural drainage or infiltration patterns; effects on fish and wildlife species and their habitats; clearing and grading impacts; temporary construction impacts; and effects of increased noise, light or human intrusion;
6. A mitigation plan, if applicable. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.130 Wetland buffers.**

A. Wetland buffer zones shall be required for all regulated activities adjacent to ~~regulated~~ wetlands. Any wetland created, restored or enhanced as compensation for approved wetland alterations shall also include the standard

buffer required for the category of the created, restored or enhanced wetland. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer zone shall be determined according to wetland category. Buffers shall not include areas that are functionally and effectively disconnected from the wetland by a road or other substantially developed surface of sufficient width and with use characteristics such that buffer functions are not provided.

B. The buffer standards required by this chapter presume the existence of a dense vegetation community in the buffer adequate to protect the wetland functions and values. When a buffer lacks adequate vegetation, the director may increase the standard buffer, require buffer planting or enhancement, and/or deny a proposal for buffer reduction or buffer averaging.

C. Buffer Dimensions.

A. Buffer Requirements. The following buffer width tables have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14-06-029, or as revised and approved by Ecology).

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1. For wetlands that score 6 points or more for habitat function, the buffers in Table 1 can be used if both of the following criteria are met:

- A relatively undisturbed, vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife. The latest definitions of priority habitats and their locations are available on the WDFW web site at: <http://wdfw.wa.gov/hab/phshabs.htm> )

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The corridor must be protected for the entire distance between the wetland and the Priority Habitat by some type of legal protection such as a conservation easement.

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Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for providing a corridor is available, Table 1 may be used with the required measures in Table 2 alone.

- The measures in Table 2 are implemented, where applicable, to minimize the impacts of the adjacent land uses.

2. For wetlands that score 3-5 habitat points, only the measures in Table 2 are required for the use of Table 1

3. If an applicant chooses not to apply the mitigation measures in Table 2, or is unable to provide a protected corridor where available, then Table 3 must be used.

4. The buffer widths in Table 1 and 3 assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

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Table 1. Wetland Buffer Requirements, in feet, if Table 2 is Implemented and Corridor Provided

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<u>Wetland Category</u>	<u>Habitat Score 3-5 points</u>	<u>Habitat Score 6-7 points</u>	<u>Habitat Score 8-9 points</u>
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<u>Category I:</u> <u>Based on total function score</u>	<u>75</u>	<u>110</u>	<u>225</u>
<u>Category I:</u> <u>Bogs and Wetlands of High Conservation Value</u>	<u>190</u>	<u>190</u>	<u>225</u>
<u>Category I:</u> <u>Interdunal</u>	<u>225*</u>	<u>225*</u>	<u>225*</u>
<u>Category I:</u> <u>Forested</u>	<u>75</u>	<u>110</u>	<u>225</u>
<u>Category I:</u> <u>Estuarine and Coastal Lagoon</u>	<u>150*</u>	<u>150*</u>	<u>150*</u>
<u>Category II:</u> <u>Based on total function score</u>	<u>75</u>	<u>110</u>	<u>225</u>
<u>Category II:</u> <u>Interdunal Wetlands</u>	<u>110*</u>	<u>110*</u>	<u>110*</u>
<u>Category II:</u> <u>Estuarine and Coastal Lagoons</u>	<u>110*</u>	<u>110*</u>	<u>110*</u>
<u>Category III:</u> <u>All types except Interdunal</u>	<u>60</u>	<u>110</u>	<u>225</u>
<u>Category III:</u> <u>Interdunal Wetlands</u>	<u>60*</u>	<u>60*</u>	<u>NA</u>
<u>Category IV:</u> <u>All Types</u>	<u>40*</u>	<u>40*</u>	<u>40*</u>

\* Buffer width not based on habitat scores

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Table 2 Impact Minimization Measures.



Developments that produce the listed disturbances and are requesting a buffer listed in Table 1 are required to address the disturbance through the use of applicable minimization measures.

This is not a complete list of measures, nor is every example measure required. Though every measure is not required, all effort should be made to implement as many measures as possible. The Director will determine, in coordination with the applicant, which measures are applicable and practicable.

**Table 2. Impact Minimization Measures.**

<u>Examples of Disturbance</u>	<u>Activities and Uses that Cause Disturbances</u>	<u>Examples of Measures to Minimize Impacts</u>
<u>Lights</u>	<ul style="list-style-type: none"> <li>• <u>Parking lots</u></li> <li>• <u>Commercial/Industrial</u></li> <li>• <u>Residential</u></li> <li>• <u>Recreation (e.g. athletic fields)</u></li> <li>• <u>Agricultural buildings</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Direct lights away from wetland</u></li> <li>• <u>Only use lighting where necessary for public safety and keep lights off when not needed</u></li> <li>• <u>Use motion activated lights</u></li> <li>• <u>Use full cut-off filters to cover light bulbs and direct light only where needed</u></li> <li>• <u>Limit use of blue-white colored lights in favor of red-amber hues</u></li> <li>• <u>Use lower intensity LED lighting</u></li> <li>• <u>Dim light to the lowest acceptable intensity</u></li> </ul>
<u>Noise</u>	<ul style="list-style-type: none"> <li>• <u>Commercial</u></li> <li>• <u>Industrial</u></li> <li>• <u>Recreation – (e.g. athletic fields, bleachers, etc.)</u></li> <li>• <u>Residential</u></li> <li>• <u>Agriculture</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Locate activity that generates noise away from wetland</u></li> <li>• <u>Construct a fence to reduce noise impacts on adjacent wetland and buffer</u></li> <li>• <u>Plant a strip of dense shrub vegetation adjacent to wetland buffer</u></li> </ul>
<u>Toxic runoff*</u>	<ul style="list-style-type: none"> <li>• <u>Parking lots</u></li> <li>• <u>Roads</u></li> <li>• <u>Commercial/Industrial</u></li> <li>• <u>Residential areas</u></li> <li>• <u>Application of agricultural pesticides</u></li> <li>• <u>Landscaping</u></li> <li>• <u>Agriculture</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u></li> <li>• <u>Establish covenants limiting use of pesticides within 150 ft. of wetland</u></li> <li>• <u>Apply integrated pest management</u></li> </ul>
<u>Stormwater runoff</u>	<ul style="list-style-type: none"> <li>• <u>Parking lots</u></li> <li>• <u>Roads</u></li> <li>• <u>Residential areas</u></li> <li>• <u>Commercial/Industrial</u></li> <li>• <u>Recreation</u></li> <li>• <u>Landscaping/lawns</u></li> <li>• <u>Other impermeable surfaces, compacted soil, etc.</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u></li> <li>• <u>Prevent channelized or sheet flow from lawns that directly enters the buffer</u></li> <li>• <u>Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns</u></li> </ul>

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<u>Examples of Disturbance</u>	<u>Activities and Uses that Cause Disturbances</u>	<u>Examples of Measures to Minimize Impacts</u>
<u>Pets and human disturbance</u>	<ul style="list-style-type: none"> <li><u>Residential areas</u></li> <li><u>Recreation</u></li> </ul>	<ul style="list-style-type: none"> <li><u>Use privacy fencing</u></li> <li><u>Plant dense native vegetation to delineate buffer edge and to discourage disturbance</u></li> <li><u>Place wetland and its buffer in a separate tract</u></li> <li><u>Place signs around the wetland buffer every 50-200', and for subdivisions place signs at the back of each residential lot.</u></li> <li><u>When platting new subdivisions, locate greenbelts, stormwater facilities, or other lower-intensity land uses adjacent to wetland buffers.</u></li> </ul>
<u>Dust</u>	<ul style="list-style-type: none"> <li><u>Tilled fields</u></li> <li><u>Roads</u></li> </ul>	<ul style="list-style-type: none"> <li><u>Use best management practices to control dust</u></li> </ul>

\* These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.

**Table 3. Buffer requirements, in feet, for applicants choosing *not* to provide corridor or implement measures in Table 2**

<u>Wetland Category</u>	<u>Habitat Score 3-5 points</u>	<u>Habitat Score 6-7 points</u>	<u>Habitat Score 8-9 points</u>
<u>Category I:</u> <u>Based on total function rating score (and not listed below)</u>	<u>100</u>	<u>150</u>	<u>300</u>
<u>Category I:</u> <u>Bogs and Wetlands of High Conservation Value</u>	<u>250</u>	<u>250</u>	<u>300</u>
<u>Category I:</u> <u>Interdunal</u>	<u>NA</u>	<u>NA</u>	<u>300</u>
<u>Category I:</u> <u>Forested</u>	<u>100</u>	<u>150</u>	<u>300</u>
<u>Category I:</u> <u>Estuarine and Coastal Lagoons</u>	<u>200*</u>	<u>200*</u>	<u>200*</u>
<u>Category II:</u> <u>Based on total function rating score (and not listed below)</u>	<u>100</u>	<u>150</u>	<u>300</u>
<u>Category II:</u> <u>Interdunal Wetlands</u>	<u>150*</u>	<u>150*</u>	<u>150*</u>

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<u>Category II:</u> <u>Estuarine and</u> <u>Coastal Lagoons</u>	<u>150*</u>	<u>150*</u>	<u>150*</u>
<u>Category III:</u> <u>All Types Except Interdunal</u>	<u>80</u>	<u>150</u>	<u>300</u>
<u>Category III:</u> <u>Interdunal Wetlands</u>	<u>80*</u>	<u>80*</u>	<u>NA</u>
<u>Category IV:</u> <u>All Types</u>	<u>50*</u>	<u>50*</u>	<u>50*</u>

\*Buffer width not based on habitat scores.

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Wetland Category	Low-Wildlife-Function (less than 20 points)	Moderate-Wildlife-Function (20—26 points)	High-Wildlife-Function (27 or more points)
	Buffer-Width (feet)		
Category-IV	50	50	50 <sup>h</sup>
Category-III	80	100	150 <sup>h</sup>
Category-II	100	150	See Table in D
Category-I	100	150	See Table in D

<sup>h</sup>—Habitat scores over twenty-six points would be very rare for Category-III wetlands and almost impossible for Category-IV wetlands that have a total rating of thirty or less.

**D. Buffers for Wetlands with High Wildlife Function (Twenty-Seven Points or More).**

Wetland Category	Points for Habitat from Wetland Rating Form									
	27	28	29	30	31	32	33	34	35	36
Category I and II	165	180	195	215	225	225	225	225	225	225

E. Where lands within the wetland buffer have an average continuous slope of twenty percent to thirty-five percent, and the required buffer width is less than one hundred feet, the buffer shall extend to a thirty percent greater dimension. In all cases, where slopes within the buffers exceed 35 percent, the buffer shall extend twenty-five feet beyond the top of the bank of the sloping area or, if a buffer associated with a geological hazard is present, to whichever extent is greater.

F. Where other critical areas defined in this chapter fall within the wetland buffer, the buffer dimension shall be the most expansive of the buffers applicable to any applicable critical area. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.135 Provisions for small isolated wetlands.**

A. All wetlands shall be regulated regardless of size; provided, that the director shall assure that preservation of isolated wetlands and associated buffers of less than ten thousand square feet of combined wetland and buffer shall maintain effective wetland functions, or be mitigated as provided below.

B. Wetlands and associated buffers of less than one thousand square feet may be displaced when the wetland meets all of the following criteria, as documented in a wetland critical area study.

1. The wetland is not associated with a riparian corridor or their buffers

2. The wetland is not associated with shorelines of the state or their associated buffers;

32. The wetland is not part of a wetland mosaic;

43. The wetland does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife; and

54. Impacts of displaced wetlands are mitigated pursuant to Sections 21.64.087 and 21.64.143.

C. Category ~~III~~ and IV wetlands between one thousand and four thousand square feet may be displaced without meeting the provisions of Section 21.64.087 regarding avoidance, minimization, rectification, and reducing and eliminating the impact over time; provided, that the criteria in subsection B of this section are met and the wetland does not score 6 points~~twenty points~~ or greater for habitat in the 2014 Western Washington Rating System.

D. Preservation of isolated wetlands with a total area of the combined wetland and buffer of ten thousand square feet or less shall meet the following provisions, or if the said provisions cannot be demonstrated, as specified by the director, they may be displaced and shall be mitigated as specified in Section 21.64.143.

1. Depressional wetlands recharged only by precipitation, interflow or groundwater shall be assured a source of recharge to maintain its hydrologic character through stormwater infiltration, or other means.

2. Wetlands that have a potential to reduce flooding or erosion or has the potential and opportunity to maintain or improve water quality as evidenced by a score of at least ten points on the applicable criteria of the wetland rating form for Western Washington shall maintain a hydraulic connection to surface water that maintains effective wetland function for flood or erosion reduction or water quality and does not substantially alter the existing hydroperiod of the wetland.

3. Wetlands that achieve a score of at least Twenty points on the habitat functions criteria of the wetland rating form for Western Washington shall maintain a connection to a linear corridor maintained as a stream buffer, a buffer associated with a geological hazard or other designated open space buffer sufficient to allow movement of terrestrial wildlife to and from the wetland and buffer complex without interruption by roads, paved areas or buildings within fifty feet. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.140 Wetland buffer averaging.**

The ~~Director~~permit approval authority may average wetland buffer widths on a case-by-case basis when the applicant demonstrates through a critical area study to the satisfaction of the director that all the following criteria are met:

A. Averaging to improve wetland protection may be permitted when all of the following conditions are met as demonstrated by a wetland assessment study pursuant to Section 21.64.120:

1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower rated area;

2. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion;

3. The total area of the buffer after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge;

4. The buffer at its narrowest point is never less than three-quarters of the required width.

B. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met as demonstrated by a wetland assessment study pursuant to Section 21.64.120:

1. There are no feasible alternatives to the site design that could be accomplished without buffer averaging;

2. The averaged buffer will not result in degradation of the wetland's functions and values;
3. The total buffer area after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge;
4. The buffer at its narrowest point is never less than three-quarters of the required width except where the director finds that there is an existing feature such as a roadway that limits buffer dimension, or an essential element of a proposed development such as access that must be accommodated for reasonable use and requires a smaller buffer.

C. The applicant implements all reasonable measures to reduce the adverse effects of adjacent land uses and ensure no net loss of wetland functions and values in conjunction with a wetland assessment study and mitigation plan. The specific measures that shall be implemented include, but are not limited to, those in Section 21.64.147. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.141 Wetland buffer increase.**

The ~~Director~~ permit approval authority may increase the width of the standard buffer width on a case-by-case basis, based on a critical area study, when a larger buffer is required to protect critical habitats as outlined in Section 21.64.300, or such increase is necessary to:

- A. Protect the function and value of that wetland from proximity impacts of adjacent land use, including noise, light and other disturbance, not sufficiently limited by buffers provided above;
- B. Maintain viable populations of priority species of fish and wildlife; or
- C. Protect wetlands or other critical areas from landslides, erosion or other hazards. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.142 Allowed activities in wetlands and buffers.**

The following uses and activities may be allowed in wetlands or buffer areas subject to the priorities, protection, and mitigation requirements of this section:

A. Utility lines and facilities providing local delivery service, not including facilities such as electrical substations, water and sewage pumping stations, water storage tanks, petroleum products pipelines and not including transformers or other facilities containing hazardous substances, may be located in Category II, III, and IV wetlands and their buffers and/or Category I wetland buffers if the following criteria are met:

1. There is no reasonable location or route outside the wetland or wetland buffer based on analysis of system needs, available technology and alternative routes. Location within a wetland buffer shall be preferred over a location within a wetlands.
2. The utility line is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation.
3. Clearing, grading, and excavation activities are limited to the minimum necessary to install the utility line, which may include boring, and the area is restored following utility installation.
4. Buried utility lines shall be constructed in a manner that prevents adverse impacts to subsurface drainage. This may include the use of trench plugs or other devices as needed to maintain hydrology.
5. Impacts on wetland functions are mitigated in accordance with Section 21.64.143.

B. Public and private roadways and railroad facilities, including bridge construction and culvert installation, if the following criteria are met:

1. There is no reasonable location or route outside the wetland or wetland buffer based on analysis of system needs, available technology and alternative routes. Location within a wetland buffer shall be preferred over a location within a wetland.



2. Facilities parallel to the wetland edge are located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation.
  3. Clearing, grading, and excavation activities are limited to the minimum necessary, which may include placement on elevated structures as an alternative to fill, where feasible.
  4. Impacts on wetland functions are mitigated in accordance with Section 21.64.143.
- C. Access to private development sites may be permitted to cross Category II, III, or IV wetlands or their buffers, pursuant to the criteria in subsection B of this section; provided, that alternative access shall be pursued to the maximum extent feasible, including through the provisions of Chapter 8.24 RCW. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified, including placement on elevated structures as an alternative to fill, if feasible.
- D. Maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact wetland functions, and subject to the provisions for nonconforming use and facilities.
- E. Stormwater conveyance or discharge facilities such as dispersion trenches, level spreaders, and outfalls may be permitted within a Category II, III, or IV wetland buffer on a case-by-case basis if the following are met:
1. Due to topographic or other physical constraints, there are no feasible locations for these facilities to discharge to surface water through existing systems or outside the buffer. Locations and designs that infiltrate water shall be preferred over a design that crosses the buffer.
  2. The discharge is located as far from the wetland edge as possible and in a manner that minimizes disturbance of soils and vegetation and avoids long-term rill or channel erosion.
- F. On-site sewage disposal system conventional drainfields may be permitted in the outer twenty-five percent of a Category II, III and IV wetland buffer when accessory to an approved residential structure, if the following conditions are met:
1. It is not feasible to connect to a public sanitary sewer system;
  2. There is no reasonable location outside the wetland buffer based on analysis of conditions within the contiguous property owned by the applicant;
  3. The facility is located as far from the wetland edge as possible and is designed and constructed in a manner that minimizes disturbance of soils and vegetation, and no trees in excess of four inches in diameter are removed or disturbed;
  4. Clearing, grading, and excavation activities are limited to the minimum necessary and the area is restored following installation.
- G. Outdoor recreational or educational activities which do not significantly affect the function of the wetland or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.) may be permitted within a Category II, III, or IV wetlands or their buffers and within a Category I wetland buffer if the following criteria are met:
1. Trails shall not exceed four feet in width and shall be surfaced with gravel or pervious material, including boardwalks;
  2. The trail or facility is located in the outer fifty percent of the buffer area unless a location closer to the wetland edge or within the wetland is required for interpretive purposes;
  3. The trail or facility is constructed and maintained in a manner that minimizes disturbance of the wetland or buffer. Trails or facilities within wetlands shall be placed on an elevated structure as an alternative to fill;

4. Wetland mitigation in accordance with Section 21.64.143. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.143 Wetland mitigation.**

Activities that adversely affect wetlands and/or wetland buffers shall include mitigation sufficient to achieve no net loss of wetland function and values in accordance with Section 21.64.087 and this section.

A. Wetland Alterations. Compensatory mitigation shall be provided for all wetland alteration and shall re-establish, create, rehabilitate, enhance, and/or preserve equivalent wetland functions and values. Compensation for wetland alterations shall occur in the following order of preference:

1. Re-establishing wetlands on upland sites that were formerly wetlands.
2. Rehabilitating wetlands for the purposes of repairing or restoring natural and/or historic functions.
3. Creating wetlands on disturbed upland sites such as those consisting primarily of nonnative, invasive plant species.
4. Enhancing significantly degraded wetlands.
5. Preserving Category I or II wetlands that are under imminent threat; provided, that preservation shall only be allowed in combination with other forms of mitigation and when the director determines that the overall mitigation package fully replaces the functions and values lost due to development.

B. Mitigation Ratios. Compensatory mitigation for wetland alterations shall be based on the wetland category and the type of mitigation activity proposed. The replacement ratio shall be determined according to the ratios provided in the table below; provided, that replacement ratio for preservation shall be determined by the director on a case-by-case basis. The created, re-established, rehabilitated, or enhanced wetland area shall at a minimum provide a level of function equivalent to the wetland being altered and shall be located in an appropriate landscape setting.

Table 21.64.143—Wetland Mitigation Type and Replacement Ratio\*

Wetland Category	Creation	Re-establishment	Rehabilitation	Enhancement Only
Category IV	1.5:1	1.5:1	<del>32</del> :1	<del>63</del> :1
Category III	2:1	2:1	<del>43</del> :1	<del>84</del> :1
Category II	3:1	3:1	<del>64</del> :1	<del>126</del> :1
Category I	<del>46</del> :1	<del>46</del> :1	8:1	<del>166</del> :1 Not-allowed

\* Ratio is the replacement area: impact area.

C. Compensation for wetland buffer impacts shall occur at a minimum one-to-one ratio. Compensatory mitigation for buffer impacts shall include enhancement of degraded buffers by planting native species, removing structures and impervious surfaces within buffers, and other measures.

D. Mitigation banks shall not be subject to the replacement ratios outlined in the replacement ratio table above, but shall be determined as part of the mitigation banking agreement and certification process.

E. Buffers. Replacement wetlands established pursuant to these mitigation provisions shall have adequate buffers to ensure their protection and sustainability. The buffer shall be based on the category in Section 21.64.130; provided, that the director shall have the authority to approve a smaller buffer when existing site constraints (such as a road) prohibit attainment of the standard buffer.

F. Adjustment of Ratios. The director shall have the authority to adjust these ratios when a combination of mitigation approaches is proposed. In such cases, the area of altered wetland shall be replaced at a one-to-one ratio through re-establishment or creation, and the remainder of the area needed to meet the ratio can be replaced by



enhancement at a two-to-one ratio. For example, impacts to one acre of a Category II wetland requiring a three-to-one ratio for creation can be compensated by creating one acre and enhancing four acres (instead of the additional two acres of creation that would otherwise be required).

G. Location. Compensatory mitigation shall be provided on-site or off-site in the location that will provide the greatest ecological benefit and have the greatest likelihood of success; provided, that mitigation occurs as close as possible to the impact area and within the same watershed sub-basin as the permitted alteration; provided, that mitigation within the watershed of a stream flowing into Oakland Bay or Hammersley Inlet and within WRIA 14 may be approved upon demonstration through a watershed- or landscape-based analysis that said mitigation site would have greater ecological benefit.

H. Protection. All mitigation areas whether on- or off-site shall be permanently protected and managed to prevent degradation and ensure protection of critical area functions and values into perpetuity. Permanent protection shall be achieved through deed restriction or other protective covenant in accordance with Section 21.64.085.

I. Timing. Mitigation activities shall be timed to occur in the appropriate season based on weather and moisture conditions and shall occur as soon as possible after the permitted alteration. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.144 Wetland mitigation plan.**

In addition to meeting the requirements of Section 21.64.087, a compensatory mitigation plan for wetland and wetland buffer impacts shall meet the following requirements:

A. The plan shall be based on applicable portions of the Washington State Department of Ecology's Guidelines for Developing Freshwater Wetland Mitigation Plans and Proposals, 2004, or other appropriate guidance document that is consistent with best available science.

B. The plan shall contain sufficient information to demonstrate that the proposed activities are logistically feasible, constructible, ecologically sustainable, and likely to succeed. Specific information to be provided in the plan shall include:

1. The rationale for site selection;
2. General description and scaled drawings of the activities proposed including, but not limited to, clearing, grading/excavation, drainage alterations, planting, invasive plant management, installation of habitat structures, irrigation, and other site treatments associated with the development activities and proposed mitigation action(s);
3. A description of the ecological functions and values that the proposed alteration will affect and the specific ecological functions and values the proposed mitigation area(s) shall provide, together with a description of required or recommended mitigation ratios and an assessment of factors that may affect the success of the mitigation program;
4. Overall goals of the plan, including wetland function, value, and acreage;
5. Description of baseline (existing) site conditions including topography, vegetation, soils, hydrology, habitat features (i.e., snags), surrounding land use, and other pertinent information;
6. Field data confirming the presence of adequate hydrology (surface and/or groundwater) to support existing and compensatory wetland area(s);
7. Nature of mitigation activities, including area of restored, created, enhanced and preserved wetland, by wetland type;
8. Detailed grading and planting plans showing proposed post-construction topography; general hydrologic patterns; spacing and distribution of plant species, size and type of proposed planting stock, watering or irrigation plans, and other pertinent information;

9. A description of site treatment measures including invasive species removal, use of mulch and fertilizer, placement of erosion and sediment control devices, and best management practices that will be used to protect existing wetlands and desirable vegetation;

10. A demonstration that the site will have adequate buffers sufficient to protect the wetland functions into perpetuity.

C. Specific measurable performance standards that the proposed mitigation action(s) shall achieve together with a description of how the mitigation action(s) will be evaluated and monitored to determine if the performance standards are being met and identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates that project performance standards are not being met. The performance standards shall be tied to and directly related to the mitigation goals and objectives.

D. Cost estimates for the installation of the mitigation program, monitoring, and potential corrective actions if project performance standards are not being met. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.145 Wetland mitigation monitoring.**

A. All compensatory mitigation projects shall be monitored for a period necessary to establish that performance standards have been met, but generally not for a period less than five years. Reports shall be submitted annually for the first three years following construction and at the completion of years five, seven, and ten if applicable to document milestones, successes, problems, and contingency actions of the compensatory mitigation. The director shall have the authority to modify or extend the monitoring period and require additional monitoring reports for up to ten years when any of the following conditions apply:

1. The project does not meet the performance standards identified in the mitigation plan.
2. The project does not provide adequate replacement for the functions and values of the impacted critical area.
3. The project involves establishment of forested plant communities, which require longer time for establishment.

B. Mitigation monitoring reports shall include information sufficient to document and assess the degree of mitigation success or failure as defined by the performance standards contained in the approved mitigation plan. Information to be provided in annual monitoring reports shall include the following:

1. Number and location of vegetation sample plots used to document compliance with performance standards;
2. Measurements of the percent survival of planted material, plant cover, stem density, presence of invasive species, or other attributes;
3. For sites that involve wetland creation, re-establishment or rehabilitation, hydrologic observations of soil saturation/inundation as needed to demonstrate that a site meets the wetland hydrology criterion;
4. Representative photographs of the site;
5. A written summary of overall site conditions and recommendations for maintenance actions if needed;
6. Other information that the director deems necessary to ensure the success of the site. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.147 Development standards—Wetlands.**

A. Development standards for adjacent development shall minimize adverse effects on the wetland, and shall include:

1. Subdivision of land shall assure that each lot has sufficient building area outside wetlands and buffers. Lots in subdivisions shall be oriented whenever feasible to provide a rear yard of at least twenty feet between the buffer area and buildings.
2. Fencing shall be provided at the perimeter of residential development to limit domestic animal entry into wetlands and buffer areas.
3. Activities that generate noise shall be located as far from the wetland and buffer as feasible. Roads, driveways, parking lots and loading areas, mechanical or ventilating equipment shall be located on sides of buildings away from the wetland, or separated by noise attenuating walls.
4. Light penetration into buffer areas and wetlands shall be limited by locating areas requiring exterior lighting away from the wetland boundary, or limiting light mounting heights to a maximum of four feet. Windows that will be lit at night should be minimized on the side of buildings facing wetlands and buffers, or screened as provided for in subsection C of this section.

B. Management of surface runoff from adjacent land shall minimize adverse effects on wetland ecological functions and shall include:

1. Control of surface water peak flow and duration of flow should be maintained at rates typical of native forest cover.
2. Runoff should be routed to infiltration systems, to the maximum extent feasible, to provide groundwater interflow recharge to wetlands and/or water bodies and to limit overland flow and erosion.
3. Surface or piped stormwater should be routed to existing conveyances or to other areas, wherever hydraulic gradients allow. Where stormwater is routed to wetlands, system design shall assure that erosion and sedimentation will be avoided to the maximum extent feasible.
4. To prevent channelized flow from lawns and other landscaped areas from entering the buffer, and to prevent washing of fertilizers, herbicides and pesticides into the buffer, if slopes adjacent to the buffer exceed fifteen percent, a ten-foot wide swale to intercept runoff or other effective interception facility approved by the director shall be provided at the edge of the buffer.
5. Adopt and implement an integrated pest management system including limiting use of fertilizers, herbicides and pesticides within twenty-five feet of the buffer.

C. In order to maintain effective buffer conditions and functions, a vegetation management plan shall be required for all buffer areas, to include:

1. Maintaining adequate cover of native vegetation including trees and understory; if existing tree cover is less than a relative density of twenty, planting shall be required consisting of seedlings at a density of three hundred stems per acre or the equivalent;
2. Provide a dense screen of native evergreen trees at the perimeter of the buffer. If existing vegetation is not sufficient to prevent viewing adjacent development from within the buffer. Planting shall be required equivalent to two rows of three-foot high stock of native evergreens at a triangular spacing of fifteen feet, or three rows of gallon containers at a triangular spacing of eight feet. Fencing may be required if needed to block headlights or other sources of light or to provide an immediate effective visual screen;
3. Provide a plan for control of invasive weeds, and remove existing invasive species;
4. Provide for a monitoring and maintenance plan for a period of at least five years, except this provision may be waived for single-family residential lots. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.200 Geologically hazardous areas—Designation.**

The following areas are designated as “geologically hazardous areas”:

A. **Landslide Hazard Areas.** Landslide hazard areas include areas susceptible to landslides because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other physical factors. Landslide hazard areas shall include areas susceptible to landslides because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other physical factors. Potential landslide hazard areas exhibit one or more of the following characteristics:

1. Sensitive Sloped Areas. Slopes exceeding thirty-five percent with a vertical relief of ten or more feet except areas composed of competent rock and properly engineered slopes designed and approved by a geotechnical engineer licensed in the state of Washington and experienced with the site;
2. Areas designated as "U," "UOS" and "URS" in the Coastal Zone Atlas;
3. Areas designated by the Soil Conservation Service as having "severe" limitation for building site development;
4. Areas that have shown evidence of historic failure or instability, including but not limited to back-rotated benches on slopes; areas with structures that exhibit structural damage such as settling and racking of building foundations; and areas that have toppling, leaning, or bowed trees caused by ground surface movement;
5. Slopes greater than fifteen percent that have a relatively permeable geologic unit overlying a relatively impermeable unit and having springs or groundwater seepage;
6. Areas potentially unstable as a result of rapid stream incision, stream bank erosion, and undercutting by wave action include slopes exceeding ten feet in height adjacent to streams, and lakes with more than a thirty percent gradient;
7. Areas located in a canyon or active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
8. Areas that are at risk of mass wasting due to seismic forces.

B. **Erosion Hazard Areas.** Erosion hazard areas are those areas of Shelton containing soils that may experience severe to very severe erosion hazard including those soils groups designated in the Soil Conservation Service Soil Survey of Mason County, Washington as "highly erodable land" and "potentially highly erodable land."

C. **Seismic Hazard Areas.** Areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, soil liquefaction or surface faulting including:

1. Areas subject to surface faulting during a seismic event;
2. Areas with underlying deposits indicative of a risk of liquefaction during a seismic event;
3. Areas subject to slope failure during a seismic event;
4. Areas that are at risk of mass wasting due to seismic forces.

Seismic hazards shall be as identified in Washington State Department of Natural Resources seismic hazard maps for Western Washington and other geologic resources. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.210 Development standards for landslide hazard areas.**

Uses and activities in landslide hazard areas shall conform to the following standards:

A. **Protection of Landslide Area and Buffer.** The landslide hazard area and associated buffer shall be protected from disturbance, except in compliance with the standards of this section. Modification of topography and vegetation in landslide hazard areas shall be stringently limited to provide multiple benefits of long-term stability of sensitive slopes and related benefits including reduction of erosion potential, reduction of stormwater runoff, and preservation of related ecological values. Unless otherwise provided or as part of an approved alteration, removal of vegetation from a landslide hazard area or related buffer shall be prohibited. If the designated landslide hazard and



buffer area lacks adequate woody vegetation to provide for stability, the director shall have the authority to require vegetation restoration or other measures to improve slope stability.

B. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the director to minimize or eliminate the risk of property damage, death, or injury and effects on other elements of the environment resulting from earth movement caused in whole or part by the development:

1. The buffer from the top of a slope shall be designed to protect persons and property from damage due to catastrophic slope failure and slope retreat over the lifetime of the use and provide an area of vegetation to promote shallow stability, control erosion and promote multiple benefits to wildlife and other resources. The minimum dimension of the buffer shall be equal to the greater of:
  - a. The distance from the top of slope equal to the vertical distance from the toe of slope to the top of slope;
  - b. The distance from the top of slope equal to the distance from the toe of slope upslope at a slope of two-to-one (horizontal to vertical) to a point that intersects with the site's ground elevation; or
  - c. Fifty feet from the top of the slope.
2. The minimum buffer from the bottom of a slope shall provide for safety of persons and property from the run-out resulting from slope failure and shall be the greater of:
  - a. The height of the slope; or
  - b. Fifty feet from the toe of the slope.
3. Buffer Reduction. The buffer may be reduced to a minimum of ten feet based on analysis of specific development plans provided by a qualified professional that demonstrates to the director's satisfaction that the reduction will adequately protect the proposed development, adjacent developments, and uses and other nearby critical areas.
4. Increased Buffer. The buffer may be increased where the director determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.

C. Development Standards.

1. Division of land within or adjacent to landslide hazard areas and associated buffers shall be clustered to avoid landslide hazard areas and associated buffers. Land that is located partially within a landslide hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of the landslide area and buffer with provision for drainage, erosion control and related features that will not adversely affect the stability of the landslide area.
2. Alteration of a landslide hazard area and buffer in order to accommodate structures or land alteration may be authorized only in cases where the director finds that reasonable development cannot be accommodated on portions of the site not subject to landslide hazards and buffers, and if analysis by a qualified professional establishes compliance with the following standards, based on specific development plans:
  - a. The proposed development will not result in a risk of landslide that may affect development on the subject property or other properties in the vicinity, and will not result in a greater risk or a need for increased buffers on neighboring properties. For unconsolidated deposits, development shall not decrease the factor of safety for landslide occurrences below the limits of one and one-half for static conditions and one and one-fifth for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code.
  - b. Measures to maintain slope stability, such as drainage systems, must be of a design that will assure operation without facilities requiring regular maintenance that would jeopardize stability if the facility fails.



- c. The development will not increase erosion or sedimentation risk on the site.
  - d. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions.
  - e. Such alterations will not adversely impact other critical areas.
  - f. Structures shall be located on the least sensitive portion of the site and clustered where possible to reduce disturbance and removal of vegetation.
  - g. Grading shall minimize alterations to the natural contour of the slope.
  - h. Foundations should conform to the natural contours of the slope and foundations should be stepped/tiered where possible to conform to existing topography of the site.
  - i. Retaining walls shall be preferred over cut and fill and shall be incorporated into structures wherever feasible.
  - j. Landslide hazard areas on unconsolidated deposits with a gradient of forty percent where the toe of slope is within the buffer area of a wetland, stream, pond or lake are not eligible for alteration of landslide hazard areas or but may be subject to alteration of buffers, subject to compliance with the standards of this chapter.
3. Critical facilities, including, but not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use, or store hazardous materials shall not be located in landslide hazard areas if there is a feasible alternative location outside the hazardous areas that would serve the intended service population. A facility may be allowed only subject to the standards in subsection (C)(2) of this section.
4. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.
5. Point discharges from surface water facilities and roof drains onto or upgradient from an erosion or landslide hazard area shall be prohibited.
6. Roads, driveways and other vehicular access, trails and walkways may be permitted only if the applicant demonstrates that no other feasible alternative exists, including through the provisions of Chapter 8.24 RCW and subject to the standards in subsection (C)(2) of this section. If access through a hazard area is granted, exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified. Access roads and trails shall be engineered and built to standards that avoid the need for major repair or reconstruction beyond that which would be required in nonhazard areas and shall be:
- a. Located in the least sensitive area of the site.
  - b. Designed to minimize topographic modification with low gradients and/or parallel to the natural contours of the site.
  - c. Retaining walls shall be preferred over cut and fill slopes to minimize topographic modification.
  - d. Clearing and grading shall minimize ground disturbance to the maximum extent feasible to accommodate allowed development and generally shall not extend more than ten feet beyond the approved development.

D. A qualified professional, licensed in the state of Washington, shall review projects in geologically hazardous areas to ensure that they are properly designed and constructed. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.220 Development standards for erosion hazard areas.**

A. Within erosion hazard areas disturbance of natural vegetation shall be limited. The following chart sets forth the maximum disturbance allowed on a site:

**Table 21.64.220**  
**Amount of Slope Which Can Be Disturbed**

Slope	Disturbance Allowed
0 to 15 percent	100 percent
15 to 25 percent	60 percent
25 to 40 percent	45 percent
Greater than 40 percent	0 percent

1. The overall disturbance allowed on development sites which have any combination of the above slope categories shall be determined by the following formula:

$$(\text{square footage of the site having 0—15\% slopes}) \times 1.00 + (\text{square footage of site having 15—25\% slopes}) \times 0.60 + (\text{square footage of site having 25—40\% slopes}) \times 0.45 = \text{Total allowable site disturbance}$$

2. Areas protected as critical areas by other provisions of this chapter shall be eliminated from the calculation of allowed site disturbance in subsection (A)(1) of this section.

3. The total allowable site disturbance limits shall be applied to the entire site and shall include all disturbance over the life of the project.

4. The disturbed area of the site shall be located within areas of the least sensitivity portions of the site.

5. Areas to be preserved as undisturbed shall be located on site plans and protected from disturbance during construction and use. Areas to be preserved in subdivisions shall be indicated on the face of the plat in accordance with Section 21.64.085, Notice on title. Disturbance limits shall be observed in subsequent development of lots.

6. Disturbance limits shall not be applied to existing single-family residential lots less than twenty thousand square feet in size that were created prior to the adoption of this chapter.

B. Structures shall be located on the least sensitive portion of the site and clustered where possible to reduce disturbance and removal of vegetation.

C. Grading shall minimize alterations to the natural contour of the slope. Building foundations shall conform to the natural contours of the slope and be stepped/tiered to conform to existing topography of the site.

D. Retaining walls shall be preferred over cut and fill for roads, parking lots and structures. Structures on slopes in excess of twenty-five percent shall incorporate earth retaining structures in buildings rather than employing freestanding earth retention structures.

E. Clearing and grading shall minimize ground disturbance to the maximum extent feasible and generally shall not extend more than ten feet beyond the approved development.

F. All structures or impervious surface improvements shall be required to have on-site drainage systems to meet the specifications of the public works department to control conveyance of stormwater to avoid erosion hazard areas. Point discharges or overland dispersion systems from surface water facilities and roof drains onto or upstream from

an erosion or landslide hazard area shall be prohibited from discharging onto slopes in excess of five percent. Conveyance should be provided to the foot of slopes.

G. Roads, driveways and other vehicular access, trails and walkways shall be:

1. Located in the least sensitive area of the site.
2. Designed to minimize topographic modification with low gradients and/or parallel to the natural contours of the site.
3. Retaining walls shall be preferred over cut and fill slopes to minimize topographic modification.

H. Logging activity allowed on slope exceeding twenty-five percent shall be partial cutting only and not clear cutting. "Partial cutting" is defined here as per WAC 222-16-010. In addition, subsequent harvest shall not create a condition inconsistent with that definition. Timber harvest in these areas shall be consistent with all applicable laws including but not limited to Chapter 222-30 WAC, Timber Harvesting, Chapter 222-34 WAC, Reforestation, and Chapter 222-38 WAC, Forest Chemicals. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.230 Seismic hazard areas standards.**

Development may be allowed in seismic hazard areas when all of the following apply:

A. If evaluation of site-specific subsurface conditions by a qualified professional demonstrates that the proposed development site is not subject to the conditions indicating seismic risk, the provisions of this subsection shall not apply.

B. If a site is subject to seismic risk, the applicant shall implement appropriate engineering design based on analysis by a qualified professional of the best available engineering and geological practices that either eliminates or minimizes the risk of structural damage or injury resulting from seismically induced settlement or soil liquefaction, including compliance with the following criteria:

1. Subdivision within a seismic hazard areas shall assure that each resulting lot has sufficient buildable area outside of the hazard area or that appropriate limitations on building and reference to appropriate standards are incorporated into subdivision approval and may be placed as restrictions on the face of the plat;
2. Structures in seismic hazard areas shall conform to applicable analysis and design criteria of the International Building Code;
3. Public roads, bridges, utilities and trails shall be allowed when there are no feasible alternative locations and geotechnical analysis and design are provided that ensure the roadway, bridge and utility structures and facilities will not be susceptible to damage from seismic induced ground deformation. Mitigation measures shall be designed in accordance with the most recent version of the American Association of State Highway and Transportation Officials (AASHTO) Manual or other appropriate document.

C. The director may waive or reduce engineering study and design requirements for alterations in seismic hazard areas for:

1. Mobile homes;
2. Additions or alterations to existing structures that do not increase occupancy or significantly affect the risk of structural damage or injury; and
3. Buildings that are not dwelling units or used as places of employment or public assembly. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.240 Geologically hazardous areas review and reporting requirements.**

A. When critical area maps or other sources of credible information indicate that a site proposed for development or alteration is or may be located within a geologically hazardous area, the director shall have the authority to require the submittal of a geological hazard assessment report.

B. A geological hazard assessment report is an investigation process to evaluate the geologic characteristics of the subject property and adjacent areas. The geological assessment shall include field investigation and may include the analysis of historical aerial photographs, review of public records and documentation, and interviews with adjacent property owners. The report shall include the following; provided, that the director may determine that any portion of these requirements is unnecessary given the scope and/or scale of the proposed development:

1. A description of which areas on the site, surrounding areas that influence or could be influenced by the site, or areas within three hundred feet of the site meet the criteria for geologically hazardous areas;
2. A scaled site plan showing:
  - a. The type and extent of geologic hazard areas, and any other critical areas, and buffers on, adjacent to or that are likely to impact or influence the proposal, including properties upslope of the subject site;
  - b. The location of existing and proposed structures, fill, access roads, storage of materials, and drainage facilities, with dimensions indicating distances to the floodplain;
  - c. The existing site topography preferably accurate to within two-foot contours; and
  - d. Clearing limits;
3. A description of the site features, including surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the report. This may include surface exploration data such as borings, drill holes, test pits, wells, geologic reports, and other relevant reports or site investigations that may be useful in making conclusions or recommendations about the site under investigation;
4. A description of the processes affecting the property or affected by development of the property including soil erosion, deposition, or accretion;
5. A description of the vulnerability of the site to seismic and other geologic processes and a description of any potential hazards that could be created or exacerbated as a result of site development.

C. If development is proposed in an area subject to geologic hazards, the assessment shall include:

1. A description and analysis of the level of risk associated with development that complies with prohibitions and buffers associated with this code;
2. A description and analysis of the level of risk associated with alternative proposals for development within or with less setback from the area of geological hazard including risk to future occupants of the subject property, adjacent property, other critical areas and the general public safety;
3. A description and analysis of the level of risk associated with the measures proposed to mitigate the hazards, ensure public safety, and protect property and other critical areas, including the risk of failure if structures, drainage systems or other facilities are not monitored, maintain, or cease to function as designed for any reasons;
4. A description and analysis of the level of risk associated with increased erosion or sedimentation risk on the site and potential effects on adjacent properties, water bodies and wetlands;
5. For projects in or affecting landslide hazard areas, the report shall also include:
  - a. Assessments and conclusions regarding slope stability for both the existing and developed conditions including the potential types of landslide failure mechanisms (e.g., debris flow, rotational slump, translational slip, etc.) that may affect the site. The stability evaluation shall also consider dynamic earthquake loading, and shall use a minimum horizontal acceleration as established by the current version of the International Building Code;



- b. Description of the run-out hazard of landslide debris to the proposed development that starts upslope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on down slope properties and critical areas;
- c. For proposed development on unconsolidated deposits, analysis of whether the development results in a factor of safety for landslide occurrences below the limits of one and one-half for static conditions and one and one-fifth for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version of the International Building Code;
- 6. For projects in seismic hazard areas, the report shall also include a detailed engineering evaluation of expected ground displacements or other liquefaction and/or dynamic settlement effects and proposed mitigation measures to ensure an acceptable level of risk for the proposed structure type or other development facilities such as access roads and utilities. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.300 Fish and wildlife habitat—Designation.**

A. Fish and wildlife habitat conservation areas are those areas identified as being of critical importance to the maintenance of certain fish, wildlife, and/or plant species. These areas are typically identified either by known point locations of specific species (such as a nest or den) or by habitat areas or both. All areas within the city meeting these criteria are hereby designated critical areas and are subject to the provisions of this chapter.

B. For purposes of this chapter, fish and wildlife habitat conservation areas shall include all of the following:

- 1. The Washington State Department of Fish and Wildlife priority habitats and species recommendations for species and habitats, for:
  - a. Endangered species listed at WAC 232-12-014;
  - b. Threatened species listed at WAC 232-12-001;
  - c. Sensitive species listed at WAC 232-12-011;
- 2. Bald eagle habitat pursuant to WAC 232-12-292;
- 3. Endangered or threatened species listed in accordance with the federal Endangered Species Act together with the areas with which they have a primary association;
- 4. State natural area preserves and natural resource conservation areas including:
  - a. Department of Natural Resources (DNR) designated Natural Areas Preserves (NAP) and Natural Resource Conservation Areas (NECA);
  - b. Washington Department of Fish and Wildlife (WDFW) designated Wildlife Recreation Areas (WRA);
- 5. Waters of the state as defined in RCW 77.55.011 and 90.56.010 including shorelines of the state as defined in RCW 90.58.010;
- 6. Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
- 7. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
- 8. Areas open to shellfish gathering under applicable health regulations and any "shellfish protection district" that may be established in accordance with Chapter 90.72 RCW.

C. In addition to the species and habitats identified in subsection B of this section, the city may designate additional species and/or habitats of local importance as follows:

1. In order to nominate an area or a species to the category of locally important, an individual or organization must:
  - a. Demonstrate a need for special consideration based on:
    - i. Declining population;
    - ii. High sensitivity to habitat manipulation; or
    - iii. Demonstrated commercial, recreational, cultural, or other special value;
  - b. Propose relevant management strategies considered effective and within the scope of this chapter; and
  - c. Provide a map showing the species or habitat location(s).
2. Submitted proposals shall be reviewed by the city and may be forwarded to the state Departments of Fish and Wildlife, Natural Resources, and/or other local, state, federal, and/or tribal agencies or experts for comments and recommendations regarding accuracy of data and effectiveness of proposed management strategies.
3. If the proposal is found to be complete, accurate, and consistent with the purposes and intent of this chapter, the city council will hold a public hearing to solicit comment. Approved nominations will become designated locally important habitats or species and will be subject to the provisions of this chapter. (Ord. 1921-0518 (part), 2018; Ord. 1689-1206 § 1 (part), 2007)

**21.64.310 Fish and wildlife habitat conservation areas—Water bodies.**

- A. Streams shall be designated in accordance with the Washington State Department of Natural Resources (DNR) stream type as provided in WAC 222-16-030 with the following revisions:
  1. Type S Water. All waters, as inventoried as “shorelines of the state” under Chapter 90.58 RCW and the rules promulgated pursuant to Chapter 90.58 RCW including periodically inundated areas of their associated wetlands.
  2. Type F-A Water. Segments of natural waters other than Type S waters, which are within defined channels greater than ten feet in width, as defined by the OHWM and periodically inundated areas of their associated wetlands or within lakes, ponds, or impoundments having a surface area of one-half acre or greater at seasonal low water and which in any case contain fish habitat.
  3. Type F-B Water. Segments of natural waters other than Type S waters, which are within defined channels less than ten feet in width, as defined by the OHWM, or within lakes, ponds, or impoundments having a surface area of less than one-half acre at seasonal low water and which in any case contain fish habitat.
  4. Type Np Water. All segments of natural waters within defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall. However, for the purpose of water typing, Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow.
  5. Type Ns Water. All segments of natural waters within defined channels that are not Type S, F, or Np waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np water. Type Ns waters must be physically connected by an above ground channel system to Type S, F, or Np waters.
- B. Nonfish habitat streams are those streams that have no known or potential use by anadromous or resident fish based on the stream character, hydrology and gradient; provided, that human-made barriers shall not be considered a limit on fish use except when the director makes the following findings:

1. 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; provided, that the infrastructure is not identified for future modification in the capital facility or other plans of the public agency responsible for the infrastructure, and the facility will not exceed its design life within the foreseeable future;
2. The human-made barrier is located beneath one or more occupied structures and it is not feasible to remove the barrier without removing the structure, and the structure is of a size and condition that removal or substantial remodel is not likely;
3. The human-made barrier is not identified for removal by a public agency or in an adopted watershed plan. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.320 Fish and wildlife habitat conservation areas—Water bodies—Buffers.**

The director shall have the authority to require buffers from the edges of all streams in accordance with the following:

A. Buffers shall be established for activities adjacent to as necessary to protect the integrity, functions and values of the resource. Buffer widths shall reflect the sensitivity of the species or habitat and the type and intensity of the adjacent human use or activity. Two systems of buffer dimensions are specified below, standard buffers and buffers based on specific water body reach characteristics and ecological functions.

B. Standard Buffers. The standard buffer widths required by this section are based on scientific studies of the conditions necessary to sustain ecological functions and values to support anadromous and resident fish and presume the existence of a dense native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. Buffers shall be measured as follows:

1. Type S Water. All waters, as inventoried as "shorelines of the state" under the jurisdiction of the Shoreline Management Act, except associated wetlands, which shall be regulated in accordance with Sections 21.64.100 through 21.64.147—One hundred fifty feet.
2. Type F-A Water. Segments of natural waters other than Type S waters, which are greater than ten feet in width—One hundred fifty feet.
3. Type F-B Water. Segments of natural waters other than Type S waters, which are less than ten feet in width—One hundred feet.
4. Type Np Water. Segments of natural waters that are perennial nonfish habitat streams—Seventy-five feet.
5. Type Ns Water. Segments of natural waters within defined channels that are seasonal, nonfish habitat streams—Fifty feet.
6. Nonfish-bearing streams in existing subdivisions:
  - a. Where streams have been placed in separate tracts, buffers will be provided by the tract, provided a minimum dimension of twenty-five feet from the edge of the stream is provided;
  - b. Where streams have not been placed in separate tracts, or if a minimum dimension of twenty-five feet from the edge of the stream is not provided, buffers will meet the dimensional requirements in subsection (B)(4) of this section, unless existing structures are located within the buffer. In that case, the following provisions shall apply:
    - i. An inner riparian buffer shall be provided with a dense community of native trees, shrubs, and groundcover. The dimension of this buffer shall be a minimum of fifteen feet, and may be expanded if sufficient clearance is available between the stream and existing primary structures;
    - ii. An outer riparian buffer may be provided to extend within ten feet of an existing primary structure. Within the outer buffer, a maximum of twenty-five percent of the zone may be used as grass turf, with the balance a dense community of native trees, shrubs, and groundcover.

C. Stream-Reach-Based Buffer. The director shall have the authority to administer the stream buffers in the table below as an alternative to the standard buffers above, based on the specific ecological functions provided by the stream segments designated with the specific management measures specified. Boundaries of reaches shall be interpreted in accordance with the criteria in Section 20.06.020. Where alternative buffer dimensions are provided, the lesser dimension shall apply, unless otherwise specified.

Table 21.64.320(C)—Stream-Reach-Based Regulations

Stream Name	Reach Number	Alternative Buffer Requirements and Management Measures
Goldsborough Creek Mouth to First Ave. Bridge	1	Subject to restoration/management plan developed at the time of substantial site development, or when bank modification occurs. Priorities for restoration include: <ul style="list-style-type: none"> <li>• Provide additional complexity in freshwater/saltwater gradients to enable juvenile anadromous fish to more effectively transition to saltwater.</li> <li>• Provide additional channel complexity and resting/refuge areas.</li> <li>• Provide riparian vegetation and shade for temperature modulation.</li> </ul>
Goldsborough Creek North Side First Ave. Bridge to 1229 W. Cota Street  South Side First Ave. Bridge to Railroad Bridge	2N and 2S	Minor and major alteration of existing development shall provide an inner buffer of twenty-five feet, or seventy-five percent of the distance to the existing building setback, whichever is greater, and: <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> Provide an outer buffer consisting of the remainder of the setback to existing buildings. <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> New development or substantial reconstruction. <ul style="list-style-type: none"> <li>• Provide a buffer of fifty feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul>
Goldsborough Creek North Side 1229 W. Cota Street to 1515 W. Railroad Ave.	3N	Minor and major alteration of existing development shall provide an inner buffer of twenty-five feet, or seventy-five percent of the distance to the existing building setback, whichever is greater, and: <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> Provide an outer buffer consisting of the remainder of the setback to existing buildings. <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> New development or substantial reconstruction. <ul style="list-style-type: none"> <li>• Provide a buffer of fifty feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul>
Goldsborough Creek North Side 1515 W. Railroad Ave. to 2009 W. Railroad Ave.	4N	Minor and major alteration of existing development shall provide an inner buffer of fifty feet, or seventy-five percent of the distance to the existing building setback, whichever is greater, and: <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul> Provide an outer buffer consisting of the remainder of the setback to existing buildings. <ul style="list-style-type: none"> <li>• Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> New development or substantial reconstruction. <ul style="list-style-type: none"> <li>• Provide a buffer of one hundred feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>• Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>• Fence and sign buffer area.</li> </ul>
Goldsborough Creek North Side 2009 W. Railroad Ave. to	5N	Minor and major alteration of existing development shall provide an inner buffer of twenty-five feet, or seventy-five percent of the distance to the existing building setback, whichever is greater, and:



Stream Name	Reach Number	Alternative Buffer Requirements and Management Measures
Shelton-Matlock Road Bridge		<ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> Provide an outer buffer consisting of the remainder of the setback to existing buildings. <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> New development or substantial reconstruction. <ul style="list-style-type: none"> <li>Provide a buffer of fifty feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul>
Goldsborough Creek South Side Railroad Bridge to Mobile Home Park	3S	Provide buffer of one hundred fifty feet or fifty feet beyond the top of thirty-five percent slope. Comply with all other standards.
Goldsborough Creek South Side Mobile Home Park	4S	Minor or major alteration of existing development provide an inner buffer of fifty feet, or seventy-five percent of the distance to existing mobile home building setback and: <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> Provide an outer buffer consisting of the remainder of the setback to existing mobile homes buildings. <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> New development or substantial reconstruction. <ul style="list-style-type: none"> <li>Buffer one hundred fifty feet, or fifty percent of lot depth.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> <li>Comply with all other standards.</li> </ul>
Goldsborough Creek South Side Mobile Home Park to Shelton-Matlock Road Bridge	5S	One hundred fifty feet or fifty feet beyond the top of thirty-five percent slope. Comply with all other standards.
Goldsborough Creek Both Sides Shelton-Matlock Road Bridge to SR 101	6	Minor alteration of existing development provide an inner buffer of fifty feet, or seventy-five percent of the distance to existing buildings and: <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> Provide an outer buffer consisting of the remainder of the setback to existing buildings. <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> Major alteration of existing development shall provide the same standards as minor alteration with the requirement that accessory buildings or existing impervious surface shall be removed with the inner buffer of fifty feet, or seventy-five percent of the existing setback to the primary building.           New development or substantial reconstruction shall provide: <ul style="list-style-type: none"> <li>Buffer one hundred fifty feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> <li>Comply with all other standards.</li> </ul>
Goldsborough Creek North Side SR 101 to UGA Boundary	7N	<ul style="list-style-type: none"> <li>Maintain buffer to existing railroad.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul>
Goldsborough Creek South Side SR 101 to UGA Boundary	7S	Minor alteration of existing development provide an inner buffer of one hundred fifty feet or seventy-five percent of the existing building setback, whichever is less, and: <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> Provide an outer buffer consisting of the remainder of the setback to existing buildings if less than one hundred fifty feet.

Stream Name	Reach Number	Alternative Buffer Requirements and Management Measures
		<ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> <p>Major alteration of existing development shall provide the same standards as minor alteration with the requirement that accessory buildings or existing impervious surface shall be removed with the inner buffer of one hundred fifty feet, or seventy-five percent of the existing setback to the primary building.</p> <p>New development or substantial reconstruction shall provide:</p> <ul style="list-style-type: none"> <li>Buffer one hundred fifty feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> <li>Comply with all other standards.</li> </ul>
Coffee Creek Mouth to SR 101	1	<p>Minor alteration of existing development provide an inner buffer of fifty feet or seventy-five percent of the existing building setback, whichever is greater, and:</p> <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of the setback to existing buildings if less than fifty feet.</p> <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> <p>Major alteration of existing development shall provide the same standards as minor alteration with the requirement that accessory buildings or existing impervious surface shall be removed with the inner buffer of fifty feet, or seventy-five percent of the existing setback to the primary building, whichever is less.</p> <p>New development or substantial reconstruction shall provide:</p> <ul style="list-style-type: none"> <li>Buffer one hundred feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> <li>Comply with all other standards.</li> </ul>
Coffee Creek SR 101 to UGA Boundary	2	<p>Minor alteration of existing development provide an inner buffer of one hundred feet or seventy-five percent of the existing building setback, whichever is greater, and:</p> <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> <p>Provide an outer buffer consisting of the remainder of the setback to existing buildings if less than one hundred feet.</p> <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> <p>Major alteration of existing development shall provide the same standards as minor alteration with the requirement that accessory buildings or existing impervious surface shall be removed with the inner buffer of one hundred feet, or seventy-five percent of the existing setback to the primary building, whichever is less.</p> <p>New development or substantial reconstruction shall provide:</p> <ul style="list-style-type: none"> <li>Buffer one hundred fifty feet, or fifty percent of lot depth as measured perpendicular to the stream.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> <li>Comply with all other standards.</li> </ul>
Shelton Creek North Side Mouth to Front Street Bridge	1N	Maintain existing buffer and vegetation to railroad.
Shelton Creek South Side Mouth to Front Street Bridge	1S	<p>Subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs.</p> <ul style="list-style-type: none"> <li>Provide additional complexity in freshwater/saltwater gradients to enable juvenile anadromous fish to more effectively transition to saltwater.</li> <li>Provide additional channel complexity and resting/refuge areas.</li> <li>Provide riparian vegetation and shade for temperature modulation.</li> </ul> <p>As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Section 21.64.087 and 21.64.370, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.</p>

Stream Name	Reach Number	Alternative Buffer Requirements and Management Measures
Shelton Creek Front Street Bridge to 7th Street Diversion	2	Minor or major alteration or new development or substantial reconstruction, where there is an existing open channel provide an inner buffer of fifteen feet, or seventy-five percent of the distance to the existing building. <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> Provide an outer buffer consisting of the remainder of setback to existing buildings. <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul>
Shelton Creek 7th Street Diversion to North 13th Street	3	Minor or major alteration of existing development. <ul style="list-style-type: none"> <li>Provide a buffer of one hundred feet or fifty feet beyond the top of the thirty-five percent slope, or fifty percent of distance between top-of-slope and the existing building setback.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> New development or substantial reconstruction. Substantial redevelopment. <ul style="list-style-type: none"> <li>Provide a buffer of one hundred feet or fifty feet beyond the top of the thirty-five percent slope.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> <li>Comply with all other standards.</li> </ul>
Shelton Creek North 13th Street to E. Island Lake Road	4	<ul style="list-style-type: none"> <li>Fifty-foot standard buffer.</li> <li>Comply with all other standards.</li> </ul>
Shelton Creek E. Island Lake Road to Island Lake	5	Minor and major alteration of existing development shall provide an inner buffer of twenty-five feet, or seventy-five percent of the distance to the existing building setback, whichever is greater, and: <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> Provide an outer buffer consisting of the remainder of the setback to existing buildings. <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> New development or substantial reconstruction. <ul style="list-style-type: none"> <li>Provide a buffer of fifty feet, or twenty-five percent of lot width as measured perpendicular to the stream.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul>
Canyon Creek Shelton Creek to Headwaters	1	Minor or major alteration or new development or substantial reconstruction, where there is an existing open channel provide an inner buffer of fifteen feet, or seventy-five percent of the distance to the existing building. <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> Provide an outer buffer consisting of the remainder of setback to existing buildings. <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul>
Canyon Creek Northcliff Road to Headwaters	2	Minor or major alteration, where there is an existing open channel provide: <ul style="list-style-type: none"> <li>A buffer area of one hundred feet, or seventy-five percent of the distance to existing buildings.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> New development or substantial reconstruction shall provide: <ul style="list-style-type: none"> <li>A buffer area of one hundred feet, or fifty percent of the lot depth as measured perpendicular to the stream.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> <li>Comply with all other standards.</li> </ul>
Shelton Creek West Tributary	1	Minor or major alteration or new development or substantial reconstruction, where there is an existing open channel provide an inner buffer of fifteen feet, or seventy-five percent of the distance to the existing building.

Stream Name	Reach Number	Alternative Buffer Requirements and Management Measures
Shelton Creek to Northcliff Road		<ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> Provide an outer buffer consisting of the remainder of setback to existing buildings. <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul>
Pioneer Way Creek Mouth to Olympic Highway South	1	Minor or major alteration, open channel portions. <ul style="list-style-type: none"> <li>Maintain existing vegetated area, or fifty percent of building setback, whichever is greater.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> New development or substantial reconstruction. <ul style="list-style-type: none"> <li>Consider restoring an open channel on a case-by-case basis.</li> <li>Where open channel exists, or is provided, provide buffer of fifty feet or minimum twenty-five feet beyond the top of thirty-five percent slope.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> <li>Comply with all other standards.</li> </ul>
Pioneer Way Creek Olympic Highway South to Headwaters	2	Minor or major alteration, open channel. <ul style="list-style-type: none"> <li>Maintain existing vegetated area, or fifty percent of existing building setback, whichever is greater.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> New development or substantial reconstruction. <ul style="list-style-type: none"> <li>Provide buffer of fifty feet or fifty feet beyond the top of thirty-five percent slope.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> <li>Comply with all other standards.</li> </ul>
Kineo Avenue Creek South to Headwaters	1	<ul style="list-style-type: none"> <li>Minor or major alteration, or new development or substantial reconstruction where an open channel is present:               <ul style="list-style-type: none"> <li>Maintain existing vegetated area, or provide buffer of fifty feet or fifty feet beyond the top of thirty-five percent slope or fifty percent of existing building setback, whichever is greater.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> </li> </ul>
Johns Creek UGA Upstream to Oak Park Plat	1	<ul style="list-style-type: none"> <li>Standard one-hundred-fifty-foot buffer or fifty feet beyond the top of thirty-five percent slope.</li> <li>Nonconforming provisions apply to existing small lots.</li> <li>Require low impact development standards for new development.</li> </ul>
Johns Creek Oak Park Plat	2	Maintain existing stream open space tract.
Johns Creek Oak Park Plat to UGA Boundary	3	<ul style="list-style-type: none"> <li>Apply exceptional two-hundred-foot buffer or fifty feet beyond the top of thirty-five percent slope.</li> <li>Wetland buffers will be wider in many cases.</li> <li>Nonconforming provisions apply to existing small lots.</li> <li>Require low impact development standards for new development.</li> </ul>
Mill Creek US 101 to SR 3	1	<ul style="list-style-type: none"> <li>Apply standard one-hundred-fifty-foot buffer.</li> <li>Require low impact development standards for new development.</li> </ul>
Mill Creek SR 3 to UGA Boundary	2	<ul style="list-style-type: none"> <li>Apply standard one-hundred-fifty-foot buffer.</li> <li>Require low impact development standards for new development.</li> <li>Require development of portions of parcels south of the creek to gain access from the south rather than crossing the stream.</li> </ul>
Island Lake	1	Minor or major alteration of existing development. <ul style="list-style-type: none"> <li>Inner buffer of twenty-five feet, or seventy-five percent of existing building setback.</li> <li>Enhance existing vegetation for permanent native stands of evergreen and deciduous trees and understory.</li> <li>Fence and sign buffer area.</li> </ul> Outer buffer remainder of setback to buildings. <ul style="list-style-type: none"> <li>Enhance existing vegetation for permanent evergreen or deciduous trees, no understory requirement.</li> </ul> New development or substantial reconstruction.



Stream Name	Reach Number	Alternative Buffer Requirements and Management Measures
		Buffer of one hundred fifty feet, or in accordance with provisions for nonconforming lots.
Goose Lake	1	No development until a MTCA plan is approved, at that time, or at the time of a specific development permit, the city will determine buffer and other management requirements.
Oakland Bay Shoreline Eagle Point UGA Limits to Manke Log Loading Facility	Marine 1	Preserve full one-hundred-fifty-foot buffer. Human uses at the water/upland interface are prohibited except water dependent utilities such as sewage and stormwater outfalls; provided, that all impacts are mitigated to result in no net loss of ecological productivity.
Oakland Bay Shoreline Manke Log Loading Facility to Simpson Timber Site Boundary	Marine 2	Subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs, for areas not serving water dependent uses that require a direct water interface. Priorities for restoration include: <ul style="list-style-type: none"> <li>• Provide for enhanced edge habitat at upland/marine water interface. Displacement of mudflats for features such as beach area may be approved if the resulting features are structurally functional and result in an increase in ecological productivity. Enhanced edge must restore more natural function through grade, substrate, and native upland vegetation that provides shading and other functions for the edge environment.</li> <li>• At the time of major redevelopment, the piped freshwater stream discharging at the head of the inlet shall be opened and reconfigured to provide saltwater marsh habitat, complexity in freshwater/saltwater gradients, channel complexity for anadromous fish resting/refuge areas and riparian vegetation and shade for temperature modulation.</li> </ul> As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Section 21.64.087 and 21.64.370, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.
Oakland Bay Shoreline Simpson Timber Site Boundary to Goldsborough Creek	Marine 3	Subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs, for areas not serving water dependent uses that require a direct water interface. Priorities for restoration include: <ul style="list-style-type: none"> <li>• Provide for enhanced edge habitat at upland/marine water interface. Displacement of mudflats for features such as beach area may be approved if the resulting features are structurally functional and result in an increase in ecological productivity. Enhanced edge must restore more natural function through grade, substrate, and native upland vegetation that provides shading and other functions for the edge environment.</li> <li>• Provision of areas with additional freshwater/saltwater gradients where freshwater sources are present through piped streams or stormwater runoff.</li> </ul> As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Section 21.64.087 and 21.64.370, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.
Oakland Bay Shoreline Simpson Timber Site Goldsborough Creek to Shelton Creek	Marine 4	Subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs, for areas not serving water dependent uses that require a direct water interface. Priorities for restoration include: <ul style="list-style-type: none"> <li>• Provide for enhanced edge habitat at upland/marine water interface. Displacement of mudflats for features such as beach area may be approved if the resulting features are structurally functional and result in an increase in ecological productivity. Enhanced edge must restore more natural function through grade, substrate, and native upland vegetation that provides shading and other functions for the edge environment.</li> <li>• Provision of areas with additional freshwater/saltwater gradients where freshwater sources are present through piped streams or stormwater runoff.</li> </ul> As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Section 21.64.087 and 21.64.370, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.
Oakland Bay Shoreline Shelton Creek Mouth to Simpson Log Loading Facility	Marine 5	On north side, maintain existing buffer and vegetation to railroad. Both sides, where fronted by existing development, subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs, for areas not serving water dependent uses that require a direct water interface. Priorities for restoration include: <ul style="list-style-type: none"> <li>• Provide additional complexity in freshwater/saltwater gradients.</li> <li>• Provide channel complexity and resting/refuge areas.</li> <li>• Provide riparian vegetation and shade for temperature modulation.</li> <li>• Provide for enhanced edge habitat through natural beach character at upland/marine water interface. Displacement of mudflats for functional features such as beach area may be approved if the resulting features are structurally functional and result in an increase in ecological productivity. Enhanced edge beaches must achieve more natural function through grade, substrate, and native upland vegetation that provides shading and other functions for the edge environment.</li> </ul>

Stream Name	Reach Number	Alternative Buffer Requirements and Management Measures
		As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Section 21.64.087 and 21.64.370, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.
Oakland Bay Shoreline Simpson Log Loading Facility to Pine Street Ramp	Marine 6	Subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs, for areas not serving water dependent uses that require a direct water interface. Priorities for restoration include: <ul style="list-style-type: none"> <li>• Provide for enhanced edge habitat at upland/marine water interface. Displacement of mudflats for features such as beach area may be approved if the resulting features are structurally functional and result in an increase in ecological productivity. Enhanced edge must restore more natural function through grade, substrate, and native upland vegetation that provides shading and other functions for the edge environment.</li> <li>• Provision of areas with additional freshwater/saltwater gradients where freshwater sources are present through piped streams or stormwater runoff.</li> </ul> As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Section 21.64.087 and 21.64.370, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.
Oakland Bay Shoreline Pine Street Ramp to UGA Boundary	Marine 7	Subject to restoration/management plan developed at the time of substantial reconstruction, or when bank modification occurs, for areas not serving water dependent uses that require a direct water interface. Priorities for restoration include: <ul style="list-style-type: none"> <li>• Provide for enhanced edge habitat at upland/marine water interface. Displacement of mudflats for features such as beach area may be approved if the resulting features are structurally functional and result in an increase in ecological productivity. Enhanced edge must restore more natural function through grade, substrate, and native upland vegetation that provides shading and other functions for the edge environment.</li> <li>• Provision of areas with additional freshwater/saltwater gradients where freshwater sources are present through piped streams or stormwater runoff.</li> </ul> Dock and marina facilities subject to standard in Section 21.64.330 and shoreline master program. As an alternative to on-site mitigation, off-site mitigation may be considered subject to the criteria in Sections 21.64.087 and 21.64.370, provided equal or better ecologic functions for the Shelton Harbor ecosystem are provided.

D. Buffer Measurement. The buffer shall be measured landward horizontally on both sides of the water body from the ordinary high water mark as identified in the field perpendicular to the alignment of the stream or lake/pond bank. The required buffer shall be extended to include any adjacent regulated wetland(s), landslide hazard areas and/or erosion hazard areas and required buffers, but shall not be extended across roads or other lawfully established structures or hardened surfaces that are functionally and effectively disconnected from the stream. Where lands adjacent to a stream display an average continuous slope of twenty percent to thirty-five percent and the required buffer is less than one hundred feet, the buffer shall extend to a thirty percent greater dimension. In all cases, where slopes within the required buffer exceed thirty-five percent, the buffer shall extend to a minimum dimension of twenty-five feet from the top of said slopes, or if a buffer associated with a geological hazard is present, to whichever extent is greater.

E. Buffers in conjunction with other critical areas. Where other critical areas defined in this chapter fall within the water body buffer, the buffer area shall be the most expansive of the buffers applicable to any applicable critical area. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.325 Fish and wildlife habitat conservation areas—Water bodies—Buffer averaging.**

The director shall have the authority to average standard stream buffer widths on a case-by-case basis when the applicant demonstrates to the satisfaction of the director that all the following criteria are met. Stream buffer averaging shall not be allowed if the performance-based stream buffers are implemented pursuant to Section 21.64.320(C).

A. Averaging to improve wetland protection may be permitted when all of the following conditions are met as demonstrated by an assessment study pursuant to Sections 21.64.082 and 21.64.360:

1. The water body or buffer area has significant differences in characteristics that affect its habitat functions;

2. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the water body and decreased adjacent to the lower-functioning or less sensitive portion;
3. The buffer averaging does not reduce the functions or values of the stream or riparian habitat, or the buffer averaging, in conjunction with vegetation enhancement, increases the habitat function;
4. The total area of the buffer after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge;
5. The buffer at its narrowest point is never less than three-quarters of the required width;
6. The slopes adjacent to the stream within the buffer area are stable and the gradient does not exceed thirty percent.

B. Averaging to allow reasonable use of a parcel may be permitted when all of the following are met as demonstrated by an assessment study pursuant to Sections 21.64.082 and 21.64.360:

1. There are no feasible alternatives to the site design that could be accomplished without buffer averaging;
2. The buffer averaging does not reduce the functions or values of the stream or riparian habitat, or the buffer averaging, in conjunction with vegetation enhancement, increases the habitat function;
3. The total area of the buffer after averaging is equal to the area required without averaging and all increases in buffer dimension for averaging are generally parallel to the wetland edge;
4. The buffer at its narrowest point is never less than three-quarters of the required width except where the director finds that there is an existing feature such as a roadway that limits buffer dimension, or an essential element of a proposed development such as access that must be accommodated for reasonable use and requires a smaller buffer.

C. The applicant implements all reasonable measures to reduce the adverse effects of adjacent land uses and ensure no net loss of functions and values in conjunction with a critical area mitigation study. The specific measures that shall be implemented include but are not limited to those in Section 21.64.380. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.326 Fish and wildlife habitat conservation areas—Water bodies—Buffer increase.**

The director shall have the authority to increase the width of a stream buffer on a case-by-case basis when such increase is necessary to achieve any of the following:

- A. Protect fish and wildlife habitat, maintain water quality, ensure adequate flow conveyance; provide adequate recruitment for large woody debris, maintain adequate stream temperatures, or maintain in-stream conditions.
- B. Compensate for degraded vegetation communities or steep slopes adjacent to the stream.
- C. Maintain areas for channel migration.
- D. Protect adjacent or downstream areas from erosion, landslides, or other hazards. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.330 Fish and wildlife habitat conservation areas—Water bodies—Allowed uses.**

The following activities or uses may be permitted in streams and/or their buffers when all reasonable measures have been taken to avoid adverse effects on species and habitats, the amount and degree of the alteration are limited to the minimum needed to accomplish the project purpose, and compensatory mitigation is provided for all adverse impacts that cannot be avoided.

- A. Restoration of streams previously piped or channeled into a new or relocation streambed when part of a restoration plan that will result in equal or better habitat and water quality and quantity, and that will not diminish



the flow capacity of the stream or other natural stream processes; provided, that the relocation has a state hydraulic project approval and all other applicable permits.

B. Road, trail, bridge, and right-of-way crossings, provided they meet the following criteria:

1. There is no other feasible alternative route with less impact on critical areas.
2. The crossing minimizes interruption of natural processes such as the downstream movement of wood and gravel and the movement of all fish and wildlife. Bridges are preferred for all stream crossings and should be designed to maintain the existing stream gradient and substrate, provide adequate horizontal clearance on each side of the ordinary high water mark and adequate vertical clearance above ordinary high water mark for animal passage. If a bridge crossing is not feasible, culverts shall be designed according to applicable state and federal guidance criteria for fish passage as identified in Fish Passage Design at Road Culverts, WDFW March 1999, and/or the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000 (and subsequent revisions), and in accordance with a state hydraulic project approval. The applicant or property owner shall maintain fish passage through bridge or culvert.
3. The city may require that existing culverts be removed, repaired, or modified as a condition of approval if the culvert is detrimental to fish habitat or water quality, and a feasible alternative exists.
4. Crossings shall be limited to the minimum width necessary. Common crossings are the preferred approach where multiple properties can be accessed by one crossing.
5. Access to private development sites may be permitted to cross streams, if there are no feasible alternative alignments. Alternative access shall be pursued to the maximum extent feasible, including through the provisions of Chapter 8.24 RCW. Exceptions or deviations from technical standards for width or other dimensions, and specific construction standards to minimize impacts may be specified, including placement on elevated structures as an alternative to fill, if feasible.

C. Outdoor recreational or educational activities which do not significantly affect the function of the water body or regulated buffer (including wildlife management or viewing structures, outdoor scientific or interpretive facilities, trails, hunting blinds, etc.) and meet the following criteria:

1. Trails shall not exceed four feet in width and shall be surfaced with gravel or pervious material, including boardwalk.
2. The trail or facility shall be located in the outer fifty percent of the buffer area unless a location closer to the water body edge is required for interpretive purposes.
3. The trail or facility shall be constructed and maintained in manner that minimizes disturbance of the water body or buffer.

D. Utility lines and facilities providing local delivery service, not including facilities such as electrical substations, water and sewage pumping stations, water storage tanks, petroleum products pipelines and transformers or other facilities containing hazardous substances, may cross water bodies or be located in buffers, if the following criteria are met:

1. There is no reasonable location or route that does not cross the water body or outside the buffer based on analysis of system needs, available technology and alternative routes. Location within a buffer shall be preferred over a location within a water body. Crossings shall be contained within the footprint of an existing road or utility crossing where possible.
2. Impacts to fish and wildlife habitat shall be avoided to the maximum extent possible and mitigated when avoidance is not feasible.
3. Utilities that cross water bodies shall be as close to perpendicular to the channel as possible to minimize disturbance. Boring under the water body may be required.



4. If not a crossing, the utility line shall be located as far from the water body as possible.
5. The utility installation shall maintain the existing stream gradient and substrate.
6. Clearing, grading, and excavation activities shall be limited to the minimum necessary to install the utility line, and the area is restored following utility installation.

E. Stormwater conveyance or discharge facilities such as infiltration systems dispersion trenches, level spreaders, and outfalls may be permitted in a fish and wildlife habitat conservation area buffer on a case-by-case basis when all of the following are met:

1. Due to topographic or other physical constraints there are no feasible locations for these facilities outside the buffer.
2. The discharge is located as far from the ordinary high water mark as possible and in a manner that minimizes disturbance of soils and vegetation.
3. The discharge outlet is in an appropriate location and is designed to prevent erosion and promote infiltration.
4. The discharge meets stormwater flow and water quality standard as provided in the 2005 Ecology Stormwater Manual for Western Washington, or the equivalent.

F. Stream bank stabilization, shoreline protection, and public or private launching ramps may be permitted subject to all of the following standards:

1. Natural shoreline processes will be maintained to the maximum extent practicable. The activity will not result in increased erosion and will not alter the size or distribution of shoreline or stream substrate, or eliminate or reduce sediment supply from feeder bluffs;
2. Adverse impact to fish or wildlife habitat conservation areas, specifically juvenile and adult fish migration corridors, or associated wetlands will be mitigated;
3. Nonstructural measures, such as placing or relocating the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient;
4. Stabilization is achieved through bioengineering or soft armoring techniques in accordance with an applicable hydraulic project approval is issued by the Washington Department of Fish and Wildlife;
5. Hard bank armoring may occur only when the property contains an existing permanent structure(s) that is in danger from shoreline erosion caused by riverine processes and not erosion caused by upland conditions, such as the alteration of natural vegetation or drainage, and the armoring shall not increase erosion on adjacent properties and shall not eliminate or reduce sediment supply.

G. New public flood protection measures and expansion of existing measures may be permitted; provided, that bioengineering or soft armoring techniques shall be used where feasible. Hard bank armoring may occur only in situations where soft approaches do not provide adequate protection, and shall be subject to requirement of the shoreline master program, where applicable, hydraulic project approval and other permits.

H. New docks shall be permitted only for public access, as an accessory to water-dependent uses or associated with a single-family residence; provided, that it is designed and used only as a facility for access to watercraft.

1. To limit the effects on ecological functions, the number of docks should be limited and new subdivisions should employ shared moorage whenever feasible. Docks on shorelines of the state must comply with policies and regulations of the city of Shelton shoreline master program.

2. Docks shall be located and designed to minimize adverse effects on ecological processes through location where they will interfere with fluvial and limnal processes including gradient and substrate; recruitment of woody debris; and fish habitat, including that related to anadromous fish.
  3. Docks shall minimize reduction in ambient light level by limiting width to the minimum necessary and shall not exceed four feet in width, except where specific information on use patterns justifies a greater width. Materials that will allow light to pass through the deck may be required including grating on walkways or gangplanks in nearshore areas.
  4. Approaches shall utilize piers or other structures to span the entire upper foreshore to the point of intersection with stable upland soils and shall be designed to avoid interfering with stream processes.
  5. Pile spacing shall be the maximum feasible to minimize shading and avoid a wall effect that would block or baffle currents, sediment movement or movement of aquatic life forms, or result in structure damage from driftwood impact or entrapment.
  6. Docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.
- I. Launch ramps may be permitted for access to the water for the public or for residents of a development or for water dependent use subject to the following criteria:
1. Launch ramps shall be located and designed to minimize adverse effects on fluvial and limnal processes including stream gradient and substrate; recruitment of woody debris; and fish habitat, including that related to anadromous fish.
  2. Ramps shall be placed and maintained near flush with the bank slope. Preferred ramp designs, in order of priority, are:
    - a. Open grid designs with minimum coverage of beach substrate;
    - b. Seasonal ramps that can be removed and stored upland;
    - c. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in beach profile.
- J. In-stream structures, such as, but not limited to, high flow bypasses, dams, and weirs, other than those regulated exclusively by the Federal Energy Regulatory Commission (FERC) shall be permitted only when the multiple public benefits are provided and ecological impacts are fully mitigated. Dams on shorelines of the state shall be regulated in accordance with the shoreline master program. Dams on other streams shall require a special use permit as provided by Chapter 20.46.
1. In-stream facilities locations shall avoid areas of high habitat value for aquatic organisms, specifically anadromous fish.
  2. In-stream facilities shall be designed to produce the least feasible effect on fluvial processes and shall minimize change in gradient.
  3. In-stream facilities shall provide mitigation of all impacts on aquatic species and habitat.
  4. In-stream facilities shall provide fish passage, in accordance with Chapter 77.57 RCW.
  5. A construction bond for one hundred fifty percent of the cost of the structure and all mitigation measures shall be filed prior to construction and a maintenance agreement shall specify responsibility for maintenance, shall incorporate the maintenance schedule specified by the design engineer, shall require annual inspections by a civil engineer licensed in the state of Washington and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.

K. Facilities permitted as shoreline dependent or shoreline oriented uses in accordance with the city shoreline master program may be located in water bodies and buffers; provided, that only those facilities that are water dependent or water oriented and facilities for necessary access may be located in water bodies and buffers; and provided, that the facility is located, designed, constructed and operated to minimize and, where possible, avoid critical area disturbance to the maximum extent feasible.

L. Clearing and grading, when allowed as part of an authorized use or activity or as otherwise allowed in these standards, may be permitted; provided, that the following shall apply:

1. Grading is allowed only during the designated dry season, which is typically regarded as May 1st to October 1st of each year; provided, that the city may extend or shorten the designated dry season on a case-by-case basis, based on actual weather conditions.
2. Appropriate erosion and sediment control measures shall be used at all times. The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, disturbed topsoil shall be redistributed to other areas of the site.
3. The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.340 Other fish and wildlife habitat conservation areas.**

A. Definition and Buffers. Protection standards for fish and wildlife habitat conservation areas other than streams and lakes are as provided in the table below:

Fish and Wildlife Habitat Conservation Area	Buffer Requirement
Areas with which federally listed threatened or endangered species have a primary association. State priority habitats and areas with which priority species have a primary association. A "primary association" means a critical component(s) of the habitats of a species, which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long term.	Buffers shall be based on recommendations provided by the Washington Department of Fish and Wildlife PHS Program; provided, that where no such recommendations are available, the buffer width shall be determined based on published literature concerning the species/habitat(s) in question and/or the opinions and recommendations of qualified professional with appropriate expertise.
Natural area preserves and natural resource conservation areas	Buffers shall be based on recommendations provided by site managers; provided, that the management strategies are considered effective and within the scope of this chapter.
Locally important habitat areas	The need for and dimensions of buffers for locally important species or habitats shall be determined on a case-by-case basis, according to the needs of specific species or habitat area of concern. The director shall coordinate with the Washington Department of Fish and Wildlife and other state, federal or tribal experts in these instances, and shall use WDFW PHS management recommendations when available.

B. Alterations that occur within a locally important habitat area or that may affect a locally important species as defined herein shall be subject to review on a case-by-case basis. The director shall have the authority to require an assessment of the effects of the alteration on species or habitats and may require mitigation to ensure that adverse effects do not occur. This standard is intended to allow for flexibility and responsiveness with regard to locally important species and habitats. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.360 Fish and wildlife habitat conservation areas—Review and reporting requirements.**

A. When city critical area maps or Washington Department of Fish and Wildlife priority species and habitat information or other sources of credible information indicate that a site proposed for development or alteration is more likely than not to contain fish and wildlife habitat conservation areas or be within the buffer of a fish and wildlife habitat conservation area, the director shall require a site evaluation (field investigation) by a qualified professional or other measures to determine whether or not the species or habitat is present and if so, its relative location in relation to the proposed project area or site. If no fish and wildlife habitat conservation areas are present, then review will be considered complete. If the site evaluation determines that the species or habitat is present, the director may require a critical areas assessment report.



B. The director may waive the report requirement for a single-family development that involves less than two thousand square feet of clearing and/or vegetation removal and will not directly disturb the designated stream or pond buffer area, designated species, or specific areas or habitat features that comprise the fish and wildlife habitat conservation area (nest trees, breeding sites, etc.) as indicated by a site plan or scaled drawing of the proposed development, except in the case of bald eagle habitat.

C. The critical areas report shall describe the characteristics of the subject property and adjacent areas. The assessment shall include the following:

1. Existing physical features of the site including buildings, fences, and other structures, roads, parking lots, utilities, water bodies, etc.;
2. Determination of the resource category and standard buffers;
3. Identification of critical areas and buffers within three hundred feet of the site and an estimate of the existing approximate acreage for each. The assessment of off-site resources shall be based on available information and shall not require accessing off-site properties if permission of the property owner cannot be obtained;
4. Proposed development activity;
5. A detailed description of the effects of the proposed development on ecological functions and buffer function and value, including the area of direct disturbance; area of buffer reduction or averaging including documentation that functions and values will not be adversely affected by the reduction or averaging; effects of stormwater management; proposed hydrologic alteration including changes to natural drainage or infiltration patterns; effects on fish and wildlife species and their habitats; clearing and grading impacts; temporary construction impacts; and effects of increased noise, light or human intrusion;
6. Provisions to reduce or eliminate adverse impacts of the proposed development activities including, but not limited to:
  - a. Clustering and buffering of development;
  - b. Retention of native vegetation;
  - c. Access limitations, including fencing;
  - d. Seasonal restrictions on construction activities in accordance with the guidelines developed by the Washington Department of Fish and Wildlife, the U.S. Army Corps of Engineers, the salmonid recovery plan and/or other agency or tribe with expertise and jurisdiction over the subject species/habitat;
  - e. Methods to reduce proximity impacts; and
  - f. Other appropriate and proven low impact development techniques. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.370 Fish and wildlife habitat conservation areas—Mitigation standards.**

A. Activities that adversely affect fish and wildlife habitat conservation areas and/or their buffers should generally be avoided through site design, including clustering. Unavoidable impacts to designated species or habitats shall be compensated for through habitat creation, restoration and/or enhancement to achieve no net loss of habitat functions and values in accordance with the purpose and goals of this chapter.

B. When compensatory mitigation is required, the applicant shall submit a mitigation plan with sufficient information to demonstrate that the proposed activities are logistically feasible, constructible, ecologically sustainable, and likely to succeed. Specific information to be provided in the plan shall include, but not be limited to:

1. General description and scaled drawings of the activities proposed including, but not limited to, clearing, grading/excavation, drainage alterations, planting, invasive plant management, installation of habitat structures,



irrigation, and other site treatments associated with the development activities and proposed mitigation action(s);

2. A description of the functions and values that the proposed mitigation area(s) shall provide, together with a description of required and an assessment of factors that may affect the success of the mitigation program; and

3. A description of known management objectives for the species or habitat.

C. Required mitigation shall be completed as soon as possible following activities that will disturb fish and wildlife habitat conservation areas and during the appropriate season. Mitigation shall be completed prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing wildlife and flora.

D. The director shall have authority to require monitoring of mitigation activities and submittal of annual monitoring reports to ensure and document that the goals and objectives of the mitigation are met. The frequency and duration of the monitoring shall be based on the specific needs of the project as determined by the director. (Ord. 1689-1206 § 1 (part), 2007)

**21.64.380 Fish and wildlife habitat conservation areas—Development standards for adjacent development.**

A. Development standards for adjacent development shall minimize adverse effects on the fish and wildlife habitat conservation areas, including water bodies, and shall include:

1. Subdivision of land shall assure that each lot has sufficient building area outside conservation areas and buffers. Lots in subdivisions shall be oriented whenever feasible to provide a rear yard of at least twenty feet between the buffer area and buildings.
2. Fencing shall be provided at the perimeter of residential development to limit domestic animal entry into conservation areas and buffer areas.
3. Activities that generate noise shall be located as far from the conservation areas and buffers as feasible. Roads, driveways, parking lots, loading areas, mechanical or ventilating equipment shall be located on sides of buildings away from the conservation areas, or separated by noise attenuating walls.
4. Light penetration into buffer areas and the water body shall be limited by locating areas requiring exterior lighting away from the conservation areas boundary, or limiting light mounting heights to a maximum of four feet. Windows that will be lit at night should be minimized on the side of buildings facing conservation areas and buffers, or screened as provided below in buffer management standards.

B. Management of surface runoff from adjacent land shall minimize adverse effects on fish and wildlife habitat conservation areas ecological functions and shall include:

1. Control of surface water peak flow and duration of flow should be maintained at rates typical of native forest cover.
2. Runoff should be routed to infiltration systems, to the maximum extent feasible, to provide groundwater interflow recharge to water bodies and to limit overland flow and erosion.
3. Surface or piped stormwater should be routed to existing conveyances or to other areas, wherever hydraulic gradients allow. Where stormwater is routed to water bodies, system design shall assure that erosion and sedimentation will be avoided to the maximum extent feasible.
4. To prevent channelized flow from lawns and other landscaped areas from entering the buffer, and to prevent washing of fertilizers, herbicides and pesticides into the buffer, if slopes adjacent to the buffer exceed fifteen percent, a ten-foot wide swale to intercept runoff or other effective interception facility approved by the director shall be provided at the edge of the buffer.

5. Adopt and apply integrated pest management system including limiting use of fertilizers, herbicides and pesticides within twenty-five feet of buffers to water bodies.

C. In order to maintain effective buffer conditions and functions, a vegetation management plan shall be required for all buffer areas established to include:

1. Maintaining adequate cover of native vegetation including trees and understory; if existing tree cover is less than a relative density of twenty, planting shall be required consisting of seedlings at a density of three hundred stems per acre or the equivalent;
2. Provide a dense screen of native evergreen trees at the perimeter of the buffer. If existing vegetation is not sufficient to prevent viewing adjacent development from within the buffer, planting shall be required equivalent to two rows of three-foot high stock of native evergreens at a triangular spacing of fifteen feet or three rows of gallon containers at a triangular spacing of eight feet. Fencing may be required if needed to block headlights or other sources of light or to provide an immediate effective visual screen;
3. Provide a plan for control of invasive weeds, and remove existing invasive species;
4. Provide for a monitoring and maintenance plan for a period of at least five years, except this provision may be waived for single-family residential lots. (Ord. 1689-1206 § 1 (part), 2007)

## **Attachment 2**

### **Chapter 2 of the City of Shelton Shoreline Master Program**

**(2020/21 Shoreline Master Program Periodic Update  
Draft, January 2021)**





## CHAPTER 2

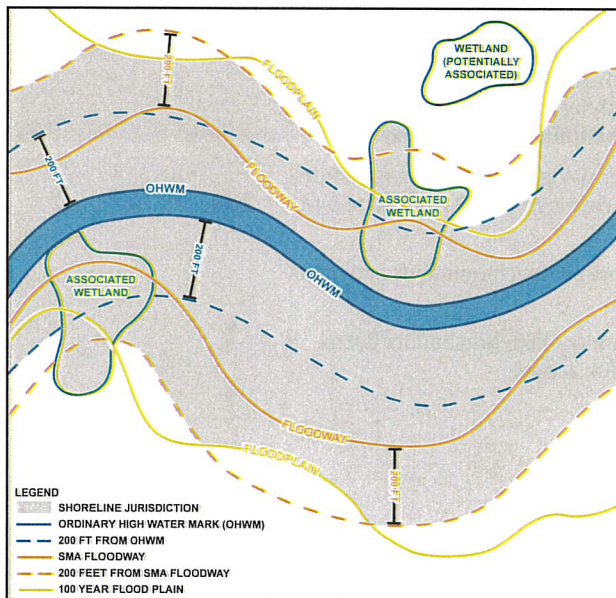
# APPLICABILITY, SHORELINE PERMITS, AND EXEMPTIONS

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### 2.1 Applicability

1. This Program shall apply to all of the shorelands and waters within the Shelton city limits that fall under the jurisdiction of RCW 90.58 (see Figure 2-1 for illustrative purposes). Such shorelands shall include:
  - a. Those lands extending two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM),
  - b. Floodways and contiguous floodplain areas landward, two hundred (200) feet from such floodways, and all wetlands and river deltas associated with the streams, lakes and tidal waters that are subject to the provisions of this Program, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58.

**Figure 2-1. Graphic Depiction of the SMA Shoreline Jurisdiction Limits**



2. The City has predesignated shorelines within its adopted Urban Growth Area (UGA). Until annexation, development in these areas shall be regulated by the Mason County Shoreline Master Program. Once annexed, those properties shall be regulated by the City of Shelton Shoreline Master Program.
3. A copy of the Official Shoreline Environment Designation Map for the City and its UGA is shown in Chapter 4. Maps indicating the extent of shoreline jurisdiction and shoreline environment designations are for guidance only. They are to be used in conjunction with best available science, field investigations and onsite surveys to accurately establish the location and extent of shoreline jurisdiction when a project is proposed.
4. All areas meeting the definition of a shoreline of the state or a shoreline of statewide significance, whether mapped or not, are subject to the provisions of this Program.
5. This Program shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other nonfederal entity that develops, owns, leases, or administers lands, wetlands, or waters that fall under the jurisdiction of the Act; and within the external boundaries of federally-owned lands (including but not limited to, private in-holdings in national wildlife refuges).
6. Nonfederal agency actions undertaken on federal lands must comply with this Program and the Act.
7. Native American Tribe actions on tribal lands and federal agency actions on federal lands are not required, but are encouraged, to comply with the provisions of this Program and the Act. Nothing in this chapter shall affect any rights established by treaty to which the United States is a party.
8. Shoreline development occurring in or over navigable waters may require a shoreline permit in addition to other approvals required from state and federal agencies.
9. This Program shall apply whether the proposed development or activity is exempt from a shoreline permit or not.
10. The shoreline jurisdiction within the city limits of Shelton and its Urban Growth Area includes the following shoreline areas:
  - a. Oakland Bay
  - b. Johns Creek
  - c. Island Lake
  - d. Goose Lake

- e. Goldsborough Creek
  - f. Mill Creek
11. The portion of Puget Sound in Shelton waterward from the line of extreme low tide is considered a "shoreline of statewide significance" per RCW 90.58.030(2)(f).

## 2.2 Shoreline Substantial Development Permit

1. Any person wishing to undertake substantial development on shorelines shall apply to the Administrator for a shoreline substantial development permit.
2. A substantial development permit is required for any development with a total cost or fair market value exceeding six thousand, four hundred, sixteen dollars (\$6,416) (or the value as amended or adjusted for inflation per RCW 90.58.030 [3] [e]) or any development which materially interferes with the normal public use of the water or shorelines of the state, except those exempted developments set forth in WAC 173-27-040 (Developments Exempt from Substantial Development Permit Requirements) (also see Section 2.3.2).
3. The Shoreline Administrator may grant a substantial development permit only when the development proposed is consistent with the policies and procedures of RCW 90.58, the provisions of WAC 173-27, and this Program.
4. The Shoreline Administrator may attach conditions to the approval of permits as necessary to assure consistency of the project with the Act and the Master Program.

## 2.3 Exemptions from a Shoreline Substantial Development Permit

### 2.3.1 General Requirements

1. Except when specifically exempted by statute, all proposed uses and development occurring within the shoreline jurisdiction must conform to RCW 90.58 (Shoreline Management Act) and this Program.
2. A use or development that is listed as a conditional use pursuant to this Program or is an unclassified use or development must obtain a conditional use permit even if the development or use does not require a substantial development permit.

3. When a development or use is proposed that does not meet the bulk, dimensional, and/or performance standards of this Program, such development or use shall only be authorized by approval of a shoreline variance even if the development or use does not require a substantial development permit.
4. Before determining that a proposal is exempt, the Administrator may conduct a site inspection to ensure that the proposal meets the exemption criteria.
5. If any part of a proposed development is not eligible for an exemption as defined in RCW 90.58.030(3)(e), WAC 173-27-040 and this section, then a substantial development permit is required for the entire proposed development project.
6. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.
7. The burden of proof that a development or use is exempt is on the applicant or proponent of the development action.

### 2.3.2 List of Exemptions

1. The following list should be considered a summary of exempt activities. Exemptions and details can be found in RCW 90.58.030 (3)(e), 90.58.147, 90.58.355, 90.58.515, and WAC 173-27-040, as amended. Exempt activities shall be considered exempt from the requirement to obtain a shoreline substantial development permit, but shall obtain a statement of exemption, as provided for in Section 2.3.3.
  - a. Any development of which the total cost or fair market value, whichever is higher, does not exceed six thousand, four hundred, sixteen dollars (\$7,047,641.6) or as adjusted by the State Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials.
  - b. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a



development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment.

- c. Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been approved by the Department of Fish and Wildlife.
- d. Emergency construction necessary to protect property from damage by the elements. An "emergency" is 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 this chapter. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any

permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.

- e. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations.
- f. Construction or modification of navigational aids such as channel markers and anchor buoys.
- g. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five (35) feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. "Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

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

- i. In salt waters, the fair market value of the dock does not exceed two thousand five hundred dollars (\$2,500); or

- ii. In fresh waters the fair market value of the dock does not exceed:

a) ~~Twenty-two thousand five hundred dollars~~ ~~ten thousand dollars (\$22,500)~~ ~~for docks that are constructed to replace existing docks, are of equal or lesser square footage than the existing dock being replaced; or~~

b) ~~Eleven thousand two hundred (\$11,200) dollars for all other docks constructed in fresh waters.~~

- ii. ~~However, if subsequent construction occurs within five years of the completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified above, the subsequent construction shall be considered a substantial development for the purpose of this chapter; but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500) occurs within five (5) years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.~~

For purposes of this section salt water shall include the tidally influenced marine and estuarine water areas of the state including the Puget Sound and all bays and inlets associated.

- i. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands.
- j. The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water.
- k. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created,

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developed or utilized primarily as a part of an agricultural drainage or diking system.

- l. Any project with a certification from the governor pursuant to chapter 80.50 RCW.
- m. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
  - i. The activity does not interfere with the normal public use of the surface waters;
  - ii. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
  - iii. The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
  - iv. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
  - v. The activity is not subject to the permit requirements of RCW 90.58.550.
- n. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of a herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under RCW 43.21C.
- o. Watershed restoration projects as defined below. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.
  - i. "Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:



- a) A project that involves less than ten (10) miles of stream-reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;
  - b) A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
  - c) A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred (200) square feet in floor area and is located above the ordinary high water mark of the stream.
- ii. "Watershed restoration plan" means a plan, developed or sponsored by the Department of Fish and Wildlife, the Department of Ecology, the Department of Natural Resources, the Department of Transportation, a federally recognized Indian tribe acting within and 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 chapter 43.21C RCW, the State Environmental Policy Act.
- p. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:
- i. The project has been approved in writing by the Department of Fish and Wildlife;
  - ii. The project has received hydraulic project approval by the Department of Fish and Wildlife pursuant to chapter 77.55 RCW; and
  - iii. The City of Shelton has determined that the project is substantially consistent with this shoreline master program. The City shall make such determination in a timely manner and provide it by letter to the project proponent.

- a) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with this shoreline master program, as follows:
- (a) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under (p)(iii)(1)(a)(i) and (ii) of this subsection:
- (i) A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:
1. Elimination of human-made fish passage barriers, including culvert repair and replacement;
  2. Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
  3. Placement of woody debris or other in-stream structures that benefit naturally reproducing fish stocks.
- 3.4. Restoration of native kelp and eelgrass beds and restoring native oysters.
- The Department of Fish and Wildlife shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the Department of Ecology determines that the scale of the project raises concerns regarding public health and safety; and
- (ii) A fish habitat enhancement project must be approved in one of the following ways:
1. By the Department of Fish and Wildlife pursuant to RCW chapter 77.95 or 77.100;
  2. By the sponsor of a watershed restoration plan as provided in RCW chapter 89.08;

3. By the Department of Ecology as a Department of Fish and Wildlife-sponsored fish habitat enhancement or restoration project;
  4. Through the review and approval process for the jobs for the environment program;
  5. Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the natural resource conservation service;
  6. Through a formal grant program established by the legislature or the Department of Fish and Wildlife for fish habitat enhancement or restoration; and
  7. Through other formal review and approval processes established by the legislature.
- (b) Fish habitat enhancement projects meeting the criteria of (p)(iii)(1)(A) of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of (p)(iii)(1)(A) of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030 (2)(c).
- (c)
- (i) A hydraulic project approval permit is required for projects that meet the criteria of (p)(iii)(1)(A) of this subsection and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the Office of Regulatory Assistance to apply for approval under this chapter. On the same day, the applicant shall provide copies of the completed application form to the Department of Fish and Wildlife and to each appropriate local government. The City of Shelton shall accept the application as notice of the proposed project. The Department of Fish and Wildlife shall provide a fifteen-day (15) comment period during which it will receive comments regarding environmental impacts. Within forty-five (45) days, the Department of Ecology shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and

approval process created by this section is not appropriate for the proposed project. The Department of Ecology shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the Department of Ecology determines that the review and approval process created by this section is not appropriate for the proposed project, the Department of Ecology shall notify the applicant and the City of Shelton of its determination. The applicant may reapply for approval of the project under other review and approval processes.

(ii) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the hydraulic appeals board pursuant to the provisions of WAC chapter 173-27.

(d) The City of Shelton may not require permits or charge fees for fish habitat enhancement projects that meet the criteria of (p)(iii)(1)(A) of this subsection and that are reviewed and approved according to the provisions of this section.

q. Developments not required to obtain shoreline permits or local reviews.

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

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i. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D, or to the Department of Ecology when it conducts a remedial action under RCW 70.105D.

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

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



- iv. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
- v. Projects authorized through the Energy Facility Site Evaluation Council process pursuant to RCW 80.50.
- q. The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to RCW 70.105D, or to Department of Ecology when it conducts a remedial action under RCW 70.105D. The Department of Ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to RCW 70.105D, or during the Department of Ecology-conducted remedial action, through the procedures developed by the Department of Ecology pursuant to RCW 70.105D.090.
- r. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

### 2.3.3 Statements of Exemption

1. Any person claiming exemption from the substantial development permit requirements **shall be required** to make written request for such an exemption in the manner prescribed by the Shoreline Administrator.
2. The Shoreline Administrator is authorized to grant requests for statements of exemption from the shoreline substantial development permit requirement for uses and developments within shorelines that are specifically listed in Section 2.3.2. The "statement of exemption" shall be in writing and shall indicate the specific exemption of this Program that is being applied to the development. It shall also provide the Shoreline Administrator's analysis of the consistency of the project with this Program and the Act. The statement of exemption may contain conditions and/or mitigating measures for approval to achieve consistency and compliance with the provisions of this Program and Act. The letter shall be sent to the applicant and maintained on file in the offices of the Shoreline Administrator.
3. A copy of written exemptions shall be forwarded to the Department of Ecology if federal permits are also required for the project (e.g., wetland fills, dredging and overwater/in-water structures would all require federal permits).

4. A denial of an exemption shall be in writing and shall identify the reason(s) for the denial. In accordance with Chapter 7, the Shoreline Administrator's decision on a statement of exemption may be reconsidered or appealed.

## 2.4 Nonconforming Uses and Development

1. "Nonconforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the Shoreline Master Program, but which does not conform to present regulations or standards of the Program.
2. Existing uses, structures and lots, legally established prior to the effective date of this Program are allowed to continue in their current form.
3. 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 pre-existing nonconformities.
4. A use which is classified as a conditional use but which existed prior to adoption of this Program or any amendment thereto, and for which a conditional use permit has not been obtained, shall be considered a legal nonconforming use.

### 2.4.1 Nonconforming Uses

1. If a nonconforming use is discontinued for twenty-four (24) consecutive months or for twenty-four (24) months during any three (3)-year period, any subsequent proposed use shall conform to the provisions of this Program. 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.
2. A structure which is being used 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 on the finding that:
  - a. No reasonable alternative conforming use is practical; and
  - b. 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.

## 2.4.2 Nonconforming Structures

1. A structure or development that is nonconforming to the standards of SMC 21.64 may be altered or renovated consistent with the requirements established in SMC 21.64.088. A structure or development that is nonconforming to the standards of the Shoreline Master Program shall comply with the following:
  - a. A nonconforming structure or development may be continued and maintained provided that it is not enlarged, intensified, increased, or altered in any way which increases its nonconformity, except for circumstances identified under SMC 21.64.
  - b. A nonconforming structure or development may be moved in a manner which does not increase its nonconformity relative to the Master Program and the Act.
  - c. If a nonconforming, nonresidential structure or development is damaged by fire or other catastrophic event to an extent not exceeding 75 percent replacement cost of the original structure, it may be reconstructed to the configuration existing immediately prior to the time the structure was damaged, provided that permits necessary to restore the development are applied for within one (1) year of the date the damage occurred, and the reconstruction is completed within two (2) years of permit issuance.
  - d. If a nonconforming residential structure or development is damaged by fire or other catastrophic event, it may be reconstructed to that configuration existing immediately prior to the time the structure was damaged, provided that permits necessary to restore the development are applied for within one (1) year of the date the damage occurred, and the reconstruction is completed within two (2) years of permit issuance.
2. Legally established residential structures and associated appurtenances that are landward of the ordinary high water mark and are used for a conforming use shall be considered legal conforming structures even if they do not meet regulatory standards for setbacks, buffers, or yards; area; bulk; height; or density.
  - a. Expansion of such structures located over water or in hazardous areas, such as floodways, is prohibited.

- b. Expansion to the main structure or the addition of a normal appurtenance shall only be accomplished by addition of space above the existing building footprint or behind the side of the main structure which is farthest away from the ordinary high water mark and in a manner consistent with SMC 21.64.

For purposes of Section 2.4.2, regulation #2, appurtenant structures means garages, sheds and other legally established structures as defined in Chapter 8. Appurtenant structures do not include bulkheads and other shoreline modifications or overwater structures such as piers and docks.

### 2.4.3 Nonconforming Lots

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

## 2.5 Shoreline Variance

1. The Shoreline Management Act states that Master Programs shall contain provisions allowing for variances from the standards and provisions of the Program. These provisions should be applied in a manner that, while protecting the environment, will assure that a person will be able to use his/her property in a fair and equitable manner.
2. 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 physical character or configuration of property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the Shoreline Management Act policies as stated in RCW 90.58.020.
3. When a shoreline variance is requested, the Hearings Examiner shall be the approval authority for the City. However, shoreline variance permits must have approval from the Department of Ecology, which shall have final approval authority under WAC 173-27-200.
4. An application for a shoreline variance shall be submitted on a form provided by the City and accompanied by maps, completed environmental



- checklist, applicable fees, and any other information specified in this Master Program or requested by the Administrator.
5. Variance permits for development that will be located landward of the ordinary high water mark and/or landward of any wetland may be authorized provided the applicant can demonstrate all of the following:
    - a. That the strict requirements of the bulk, dimensional, or performance standards set forth in the Master Program preclude or significantly interfere with a reasonable use of the property;
    - b. 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;
    - c. That the design of the project will be compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and Master Program and will not cause adverse impacts to the shoreline environment;
    - d. That approval of the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
    - e. That the variance requested is the minimum necessary to afford relief; and
    - f. That the public interest will suffer no substantial detrimental effect.
  6. Variance permits for development and/or uses that will be located either waterward of the ordinary high water mark or within any wetland, may be authorized provided the applicant can demonstrate all of the following:
    - a. That the strict application of the bulk, dimensional or performance standards set forth in the Master Program precludes all reasonable use of the property;
    - b. That the proposal is consistent with the criteria established under subsection (5)(b) through (f); and
    - c. That the public rights of navigation and use of the shorelines will not be adversely affected.
  7. 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

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

8. The burden of proving that a proposed shoreline variance meets the criteria of this Master Program shall be on the applicant. Absence of such proof shall be grounds for denial of the application.
9. A variance from City development code requirements shall not be construed to mean a shoreline variance from use regulations in this Master Program, and vice versa.
10. Shoreline variances may not be used to permit a use or development that is specifically prohibited in a shoreline environment designation.
11. Variance review shall require a public hearing before the City of Shelton Hearings Examiner.
12. On all variance applications, the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.
13. After the City's approval of a variance application, the Administrator shall submit the permit to the Department of Ecology for its approval, approval with conditions, or denial. Upon receipt of the Ecology decision, the Administrator shall notify those interested persons having requested notification of such decision.

## 2.6 Shoreline Conditional Use Permit

1. The Shoreline Management Act states that Master Programs shall contain provisions for allowing certain uses with specific limitations under a conditional use permit. These provisions should be applied in a manner that, while protecting the environment, will assure that a person will be able to use his/her property.
2. The purpose of a conditional use permit is to provide a system within the Master Program which allows flexibility in the application of the use regulations of this Program in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use permit, special conditions may be attached to the permit by the City 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.
3. When a conditional use permit is requested, the Hearings Examiner shall be the approval authority for the City. However, shoreline conditional use

permits must have approval from the Department of Ecology, which shall have final approval authority under WAC 173-27-200.

4. An application for a shoreline conditional use permit 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.
5. Uses classified as conditional uses may be authorized provided that the applicant demonstrates all of the following:
  - 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 are compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and the 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.
6. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
7. Conditional use permits shall require a public hearing before the City of Shelton Hearings Examiner.
8. Uses which are specifically prohibited by this Master Program may not be authorized through a conditional use permit process unless part of a request pursuant to Section 2.4 (Nonconforming Uses and Structures).
9. The burden of proving that a proposed shoreline conditional use meets the criteria of this Program and WAC 173-27-160 shall be on the applicant. Absence of such proof shall be grounds for denial of the application.
10. The City is authorized to impose conditions and standards to enable a proposed shoreline conditional use to satisfy the conditional use criteria.

11. Uses which are not specifically identified or set forth in this Master Program are considered unclassified and may be authorized through a conditional use permit provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the City of Shelton Shoreline Master Program.
12. After the City's approval of a conditional use application, the Administrator shall submit the permit to the Department of Ecology for its approval, approval with conditions, or denial. Upon receipt of the Ecology decision, the Administrator shall notify those interested persons having requested notification of such decision.

## 2.7 Permit Application

1. The Administrator shall provide the necessary application forms for shoreline substantial development permits, letter of exemptions, conditional use and variance permits. The applicant shall provide, at a minimum, the following information as applicable to the proposal:
  - a. Site plan drawn to scale and including:
    - i. Site boundary
    - ii. Property dimensions
    - iii. Location of ordinary high water mark
    - iv. Location(s) of critical areas and associated buffer as designated in SMC 21.64
    - v. General direction of surface drainage
    - vi. Typical cross section or sections showing:
      - (1) existing ground elevation
      - (2) proposed ground elevation
      - (3) height of existing structures
      - (4) height of proposed structures
    - vii. Where appropriate, proposed land contours using 5-foot intervals in water area and 10-foot intervals on areas landward of ordinary high water mark; areas of proposed grading, cut, or fill should be shown with existing and proposed contours;
    - viii. Existing site conditions, including: dimensions and location of existing structures (including setbacks from all property lines and critical areas), dimensions and location of parking areas (including



- setbacks from all property lines and critical areas), existing locations and types of landscaping/vegetation (indicate whether vegetation is proposed to be retained or removed), and location of any existing easements;
- ix. Proposed site conditions, including: dimensions and locations of proposed structures (including setbacks from all property lines, critical areas and existing structures), dimensions and locations of parking areas (including setback from all property lines and critical areas), proposed areas of landscaping/vegetation, location of proposed graveled areas or other areas of proposed property coverage;
  - x. Location of proposed utilities (sewer, septic-system tank and drainfield, water, gas, electricity, stormwater management facilities, etc.).
- b. General description of the character of vegetation found on site.
  - c. General description of the existing ecological functions and processes affecting, maintaining, or influencing the shoreline at/near the project site along with a summary characterization of the effects of the proposed project on existing ecological functions and processes in the vicinity of the project and a description of how the proposal complies with the mitigation sequence in section 5.4 of this Master Program. If the project is likely to have adverse effects on shoreline ecological functions or processes, a mitigation plan shall be provided demonstrating measures that will be taken to offset impacts. Depending on the proposed development and existing site conditions, this information may be required to be prepared by a qualified professional pursuant to Chapter 21.64 (Critical Areas) of the Shelton Municipal Code.
  - d. Source, composition, and volume of fill material (if any).
  - e. Composition and volume of any extracted materials and proposed disposal area (if any).
  - f. Shoreline environment designation according to the Master Program.
2. Complete application and supporting documents for all shoreline permits shall be submitted to the Administrator for processing and review. Any deficiencies in the application shall be corrected by the applicant prior to further processing. The date of application for all permits shall be the date on which the Administrator receives a **complete** permit application.



## **Attachment 3**

### **Chapter 5 of the City of Shelton Shoreline Master Program**

**(2020/21 Shoreline Master Program Periodic Update  
Draft, January 2021)**

## **CHAPTER 5**

# **GENERAL SHORELINE USE AND DEVELOPMENT REGULATIONS**

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The following general regulations apply within all shoreline environment designations. These provisions are to be used in conjunction with the more specific shoreline use and modification regulations in Chapter 6.

### **5.1 General Shoreline Use and Development Regulations**

1. Shoreline uses and developments that are water-dependent are preferred uses in the shoreline and shall be given priority.
2. Nonwater-oriented uses shall not adversely impact or displace water-oriented shoreline uses.
3. All shoreline developments and uses shall be located, designed and constructed to avoid, minimize and mitigate for adverse impacts to shoreline ecological functions.
4. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance of, or minimize adverse impacts to, critical saltwater habitat and critical fish and wildlife habitat conservation areas, including, but not limited to, spawning, nesting, rearing and habitat areas, and migratory routes. Where avoidance of adverse impacts is not feasible, the developments shall incorporate mitigation measures to protect species and habitat functions consistent with SMC 21.64.087.
5. All heavy construction equipment, and fuel storage, repair and construction material staging areas shall be located as far landward as necessary to avoid and minimize impacts to shoreline functions.
6. All debris, overburden and other waste materials from construction shall be disposed of to prevent them from entering any water body by erosion from drainage, high water or other means.
7. Navigation channels shall be kept free of hazardous or obstructing development or uses.
8. In-water work shall be scheduled to protect biological productivity (including but not limited to fish runs, spawning, and benthic productivity).



In-water work shall not occur in areas used for commercial fishing during a fishing season unless specifically addressed and mitigated for in the permit.

9. In accordance with RCW 90.58.580, a Substantial Development Permit is not required for development on land that is brought under shoreline jurisdiction due to a shoreline restoration project. However, projects are still required to comply with the regulations of this program.
10. Projects taking place on lands that a brought into shoreline jurisdiction due to a shoreline restoration project that caused a landward shift of the OHWM may apply to the Administrator for relief from the SMP development standards and use regulations under the provisions of RCW 90.58.580. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of the Department of Ecology.
11. Project proponents for in-water work shall contact the Washington State Department of Fish and Wildlife and affected Tribes early in the development process.
12. Critical area studies may be required by the Shoreline Administrator pursuant to SMC 21.64.081 and 21.64.082 for development in, or adjacent to, critical areas and critical saltwater habitat areas.

## **5.2 General Shoreline Modification and Development Regulations**

1. All applicable federal and state permits shall be obtained and complied with in the construction and operation of shoreline modification projects.
2. All new development activities shall be located and designed to prevent or minimize the need for shoreline stabilization and flood protection works such as bulkheads, other bank stabilization, fills, levees, dikes, groins, jetties or substantial site regrades. All development in the floodplain shall also include an assessment of potential effects the project would have on channel migration, and incorporate measures to mitigate any adverse impacts on channel migration.
3. The City shall require and utilize the following information during its review of shoreline modification activity, shoreline stabilization and flood protection proposals:
  - a. Purpose of project;
  - b. Hydraulic characteristics ;
  - c. Existing shoreline stabilization and flood protection devices;

- d. Construction material and methods;
  - e. Physical, geological and/or soil characteristics of the area;
  - f. Predicted impact upon area shore and hydraulic processes, adjacent properties and shoreline and water uses;
  - g. Alternative measures (including nonstructural) which will achieve the same purpose;
  - h. Physical or geologic stability of uplands; and
  - i. Potential impact upon area shore processes, adjacent properties and upland stability.
4. Shoreline stabilization and flood protection works are prohibited in wetlands and on point and channel bars. They are also prohibited in salmon and trout spawning areas except when the primary purpose of the project is for fish or wildlife habitat enhancement.
5. Shoreline stabilization or flood control works shall, to the extent possible, be planned, designed and constructed to allow for channel migration. These works shall not reduce the volume and storage capacity of rivers and adjacent wetlands or floodplains.

### 5.3 No Net Loss

1. Uses and developments that cause a net loss of ecological functions and processes shall be prohibited. Any use or development that causes the future ecological condition to become worse than current condition shall be prohibited.
2. All shoreline use and development, including preferred uses, emergency actions and uses that are exempt from permit requirements, shall be located, designed, constructed, conducted, and/or maintained in a manner that maintains shoreline ecological processes and functions.

### 5.4 Mitigation

1. To assure no net loss of ecological functions, mitigation shall be applied to all developments or proposals subject to this Master Program to offset any impacts to shoreline ecological functions, habitats, or processes in the following sequence of steps listed in order of priority.
  - a. Avoiding the impact altogether by not taking a certain action or parts of an action, or altering the action to avoid impacts;

- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology and engineering 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; and
  - e. Compensating for the impact by replacing, enhancing, or providing similar substitute resources or environments and monitoring the impact and the mitigation project and taking appropriate corrective measures.
  - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
2. In addition to requirements of this section, SMC 21.64.087 shall apply.

## 5.5 Critical Areas Protection

### 5.5.1 Applicable Critical Areas

For purposes of this Program, the following critical areas, defined in SMC Title 21, will be protected under this Program:

1. Frequently Flooded Areas;
2. Wetlands;
3. Geologically Hazardous Areas;
4. Fish and Wildlife Habitat Conservation Areas; and
5. Aquifer Recharge Areas.

### 5.5.2 General Provisions

1. The City of Shelton Critical Area Protection Ordinance, SMC 21.64 (~~Ordinance No. 1689-1206, adopted December 18, 2006~~), the Aquifer Recharge Areas provisions in SMC 21.66, and the Flood Damage Prevention provisions in SMC 18.10 are hereby adopted in whole as a part of this Program, except for the following:
  - a. SMC 21.64.083 "Reasonable use." Within shoreline jurisdiction, reasonable use requests must be processed as a Variance, consistent with Chapter 2, Section 2.5.

- b. SMC 21.64.091 "Appeals:" Within shoreline jurisdiction, any appeals of an administrative decision shall be appealed to the state Shorelines Hearings Board pursuant to WAC 173-27-220 and the provisions of section 7.9 of this SMP.

~~c. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements, as amended.~~

~~d.c.~~ In shoreline jurisdiction, the definition of hydric soils in SMC 21.64.030 does not apply. The definition of hydric soil shall be derived from the language in the Corps of Engineers Wetland Delineation Manual and the U.S. Army Corps of Engineers (2010) Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0).

~~e. In shoreline jurisdiction, the wetland point scale to separate wetland categories in SMC 21.64.100 (D) does not apply. Category I wetlands are those that score 23 or more points, Category II wetlands are those that score between 20 and 22 points, Category III wetlands are those that score between 16 and 19 points, and Category IV wetlands are those that score between 9 and 15 points.~~

~~f. In shoreline jurisdiction, the wetland point scale used to assign wetland buffer dimensions in SMC 21.64.130(C) and (D) do not apply. Low wildlife function will be designated by habitat scores of 3-4 points, moderate wildlife function will be designated by habitat scores of 5-7 points, and high wildlife function will be designated by scores of 8-9 points. The tables are amended as follows:~~

Table 1. Buffer Dimensions.

Wetland Category	Low Wildlife Function (less than 5 points)	Moderate Wildlife Function (5-7 points)	High Wildlife Function (8-9 Points)
	Buffer Width (feet)		
Category IV	50	50	50 <sup>1</sup>
Category III	80	150	See Table 2
Category II	100	150	See Table 2
Category I	100	150	See Table 2

<sup>1</sup>Habitat scores over seven points would be very rare for Category III wetlands and almost impossible for Category IV wetlands that have a total rating system of sixteen or less.



**Table 2. Buffers for Wetlands with High Wildlife Function (Eight or Nine Points or More).**

Wetland Category	Points for Habitat from Wetland Rating Form	
	8	9
Category I, II, and III	195	225

All references to the Critical Area Protection Ordinance SMC 21.64 (CAO) are for this specific version.

~~g. In shoreline jurisdiction, the point scale used in reference to isolated wetlands in SMC 21.64.135(C) and (D.3) do not apply. Reference to 20 points or greater shall be to 5 points or greater.~~

2. Shoreline uses, activities, developments and their associated structures and equipment shall be located, designed and operated to protect the ecological processes and functions of critical areas.
3. Critical areas within the shoreline jurisdiction shall be regulated for any use, development or activity, as provided in accordance with this Program and SMC Chapter 21.64, whether or not a shoreline permit or written statement of exemption is required.
4. Provisions of the critical area regulations that are not consistent with the Act and supporting WAC chapters shall not apply in shoreline jurisdiction.
5. Unless otherwise stated, no development shall be constructed, located, extended, modified, converted, or altered or land divided without full compliance with SMC Title 21.64 Critical Areas.
6. Unless otherwise stated, critical area buffers shall be protected and/or enhanced in accordance with this Program and SMC Chapter 21.64. However, these provisions do not extend the shoreline jurisdiction beyond the limits specified in this Program.
7. Docks and piers, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:
  - a. The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with the protection of the public trust, as embodied in RCW 90.58.020;
  - b. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;

- c. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.
- d. The project is consistent with the State's interest in resource protection and species recovery.

Private, noncommercial docks for individual residential or community use may be authorized provided that;

- a. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;
- b. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.

All over-water and near-shore developments in marine and estuarine waters shall provide an inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with accepted research methodology.

## 5.6 Site Planning and Development

### 5.6.1 General

1. Stormwater infiltration systems shall be employed to mimic the natural infiltration and groundwater interflow processes where feasible and in a manner consistent with SMC 21.64.380B and the currently adopted City Stormwater Management Manual.
2. Accessory uses that do not require a shoreline location shall be sited away from the shoreline and upland of the principal use.
3. Parking, storage, and nonwater-dependent accessory structures and areas shall be located landward from the OHWM and landward of the water-oriented portions of the principal use, where feasible.
4. Impervious surfaces shall be minimized to the extent feasible. Impervious surfacing for parking lot/space areas, trails, and pathways shall be minimized. Applicants are encouraged to use alternative surfaces and Low Impact Development (LID) techniques where feasible.
5. When feasible, existing transportation corridors shall be utilized. Ingress/egress points shall be designed to minimize potential conflicts with and impacts upon vehicular and pedestrian traffic. Pedestrians shall be

provided with safe and convenient circulation facilities throughout project sites.

6. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading, alteration of topography and natural features, and designed to accommodate wildlife movement between properties and shoreline areas to the extent feasible.
7. Utilities shall be located within roadway and driveway corridors and rights-of-way wherever feasible.
8. Fencing, walls, and similar features shall be designed in a manner that does not significantly interfere with wildlife movement, unless deemed necessary by Shoreline Administrator for safety and security purposes.

### 5.6.2 Clearing, Grading, Fill and Excavation

1. Land disturbing activities such as clearing, grading, fill and excavation shall minimize impacts to soils and native vegetation, and shall at a minimum meet the requirements of SMC Chapter 13.02 Stormwater Management, the City of Shelton Department of Public Works Design and Construction Standards, and SMC 21.64.330L.
2. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary to accommodate the authorized use.
3. Surface drainage systems or earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.
4. Clearing and grading shall not result in substantial changes to surface water drainage patterns off of the project site and onto adjacent properties.
5. Upon completion of construction, remaining cleared areas shall be replanted with native vegetation and/or plant species.
6. Clearing and grading shall be scheduled to minimize adverse impacts, including but not limited to, damage to water quality and aquatic life.
7. Clearing and grading shall only be allowed as part of an approved shoreline use/development and subject to the requirements of the primary use/development.
8. Fills shall only be allowed as part of an approved shoreline use/development and subject to the requirements of the primary use/development.
9. Fill waterward of OHWM shall be permitted as a conditional use only and under the following circumstances:

- a. In conjunction with a water-dependent or public access use permitted by this Master Program;
  - b. Cleanup and/or disposal of contaminated sediments as part of an interagency environmental cleanup plan;
  - c. Disposal of dredged material in accordance with a DNR Dredged Material Management Program;
  - d. Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline (if alternatives to fill are shown not to be feasible).
10. Fill waterward of the OHWM shall be permitted for mitigation and ecological restoration and enhancement projects, provided the project is consistent with all other provisions of this program.
11. Permitted fill activities waterward of the OHWM must demonstrate that they comply with the following standards:
  - a. Alternatives to fill are not feasible;
  - b. Fill materials will not adversely affect water quality;
  - c. Fill shall be deposited to minimize disruption of normal surface and groundwater passage;
  - d. Timing will minimize damage to water quality and aquatic life.
12. Waterward of the OHWM, pile or pier supports shall be utilized whenever feasible in preference to fills.
13. Fill shall be permitted only where it is demonstrated that the proposed action will not:
  - a. Result in significant damage to water quality, fish, shellfish and/or wildlife habitat; or
  - b. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities.
14. Fill within the one-hundred-year (100-year) floodplain requires demonstration that fill will not reduce the floodplain water storage capacity or in any way increase flood hazard so as to endanger public safety.
15. Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration within stream subestuaries.

**Commented [rss1]:** This doesn't make sense here because the fill is being placed waterward of the OHWM.



16. Fill in wetlands shall be avoided whenever possible. Fills may be authorized where the applicant follows steps to avoid, minimize and mitigate impacts consistent with SMC 21.64.143 and 144.
17. Fills shall be designed, constructed and maintained to prevent, minimize and control all material movement, erosion and sedimentation from the affected area.
18. Fill materials shall be sand, gravel, soil, rock, crushed concrete or a similar material. Use of polluted dredge materials and sanitary fill materials is prohibited unless allowed as part of an interagency environmental cleanup plan.
19. Fills shall be designed to allow surface water penetration into groundwater supplies where such conditions existed prior to fill.
20. Applications for fill permits shall include the following:
  - a. Proposed use of the fill area;
  - b. Physical, chemical and biological characteristics of the fill material;
  - c. Source of fill material;
  - d. Method of placement and compaction;
  - e. Location of fill relative to natural and/or existing drainage patterns;
  - f. Location of the fill perimeter relative to OHWM;
  - g. Perimeter erosion control or stabilization means; and
  - h. Type of surfacing and runoff control devices.
21. Excavation shall only be allowed as part of an approved shoreline use/development and subject to the requirements of the primary use/development.
22. Excavation below the OHWM is considered dredging and subject to provisions under that section in Chapter 6.
23. Normal nondestructive pruning and trimming of vegetation for maintenance purposes, and removal of hazard trees, shall not be subject to these regulations. Specific provisions of the City of Shelton Critical Areas Ordinance may apply.
24. For the purposes of this Program, preparatory work associated with the conversion of land to nonforestry uses and/or developments shall not be considered a forest practice and shall be reviewed in accordance with the provisions for the proposed nonforestry use, the general provisions of this Program, and shall be limited to the minimum necessary to accommodate an approved use.

### 5.6.3 Building Design

1. Structures shall be designed to conform to natural contours and minimize disturbance to soils and native vegetation to the extent feasible.
2. Interior and exterior structure lighting shall be designed, shielded and operated, to the extent feasible, to:
  - a. Prevent glare on adjacent properties, public areas or roadways;
  - b. Prevent land, air, and water traffic hazards;
  - c. Reduce night sky effects; and
  - d. Avoid impacts to fish and wildlife.

### 5.7 Vegetation Conservation

1. Existing vegetation within shoreline jurisdiction shall be retained in the riparian zone consistent with Chapter 6, Table 6-3, SMC 21.64.320, and SMC 21.64.380.
2. Removal of native vegetation shall be avoided. Where removal of native vegetation cannot be avoided, it shall result in no net loss of shoreline ecological functions. Mitigation shall be provided consistent with an approved mitigation plan.
3. Selective pruning for safety and view protection is allowed provided pruning is conducted in a manner that minimizes harm to the health of the trees being pruned.
4. Topping trees in the shoreline is prohibited.
5. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are not enhancing shoreline function or are a threat to public safety.
6. Unless otherwise stated, the vegetation conservation regulations of this Program do not apply to (1) commercial forest practices as defined by this Program when such activities are covered under the Washington State Forest Practices Act (RCW 76.09), except where such activities are associated with a conversion to other uses or other forest practice activities over which local governments have authority; or (2) flood control levees that are required to be kept free of vegetation that damages their structural integrity.

7. Clearing by hand held equipment of invasive nonnative shoreline vegetation or plants listed on the State Noxious Weed List is permitted within shoreline jurisdiction.
8. Aquatic weed control shall be allowed when native plant communities and associated habitats are threatened or where an existing water-dependent use is restricted by the presence of weeds.
9. Aquatic weed control methods that minimize disturbance to bottom sediment or benthic organisms shall be preferred.
10. Use of herbicides to control aquatic weeds shall be prohibited unless approved for such use by the appropriate agencies.
11. In addition to requirements of this section, SMC 21.64.071 shall apply.

## **5.8 Views and Aesthetics**

1. Shoreline uses and shoreline activities shall not substantially reduce significant water views from public viewpoints.
2. Public street ends, public rights-of-way, and public utilities shall provide visual access to the water and shoreline in accordance with RCW 35.79.035 and RCW 36.87.130.
3. Submerged public rights-of-way shall be preserved for public benefit.
4. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed either by clearing or by topping (see 5.6.2 Clearing, Grading, Fill, and Excavation and 5.7 Vegetation Conservation).
5. Development on or over the water shall be constructed as far landward as possible to avoid impacting the shoreline and water views of surrounding properties.

## **5.9 Water Quality and Quantity**

1. Shoreline use and development shall incorporate measures to protect and maintain surface and groundwater quantity and quality in accordance with all applicable laws and in such a manner as to ensure no net loss of ecological function.
2. All shoreline development shall minimize any increase in surface runoff through control, treatment and release of surface water runoff so that the receiving water quality and shore properties and features are not adversely affected. Control measures include but are not limited to: Low Impact

Development techniques (LID), dikes, catch basins or settling ponds, oil interceptor drains, grassy swales, planted buffers, and fugitive-dust controls.

3. All shoreline development shall comply with the applicable requirements of the currently adopted Stormwater Management Manual.
4. Herbicides and pesticides shall not be allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies.
5. Chemical pesticides using aerial spraying techniques within the shoreline jurisdiction, including over water bodies or wetlands, shall be prohibited unless specifically permitted by the appropriate agencies.
6. Pesticides shall be used, handled, and disposed of in accordance with provisions of the Washington State Pesticide Application Act (RCW 17.21) and the Washington State Pesticide Control Act (RCW 15.58) to prevent contamination and sanitation problems.
7. The release of oil, chemicals or other hazardous materials into the groundwater or surface water or onto shorelands is prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leak proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.
8. Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any groundwater or surface water or to be discharged onto shorelands.
9. All materials that may come in contact with water shall be composed of nontoxic materials, such as untreated wood, concrete, approved plastic composites or steel, that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper chromium arsenic or pentachlorophenol is prohibited in shoreline water bodies.

## 5.10 Archeological, Cultural, and Historic Resources

1. Archaeological sites located in shoreline jurisdiction are subject to RCW 27.44 (Indian Graves and Records) and RCW 27.53 (Archaeological Sites



and Records) and shall comply with WAC 25-48 as well as the provisions of this Master Program.

**2. Known Historic Properties:**

- a. Permits issued in areas known to contain archaeological resources shall include a requirement that the developer provide for a site inspection and evaluation by a professional archaeologist approved by the City. The archaeologist shall work in coordination with any concerned tribes and consult with the Washington State Department of Archaeology and Historic Preservation. The permit shall require approval by the City before work can begin on a project following inspection. Significant archaeological data or artifacts shall be recovered before work resumes or begins on a project.
- b. When the City determines that a site has significant archaeological, natural scientific or historical value, a shoreline permit or exemption letter shall not be issued that would pose a threat to the resources of the site. The City may require that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts, or mitigation plan.
- c. Identified historical or archaeological resources shall be considered in site planning for parks, public open space, and public access, with public access to such areas designed and managed so as to give maximum protection to the resource.

**3. Inadvertent Discovery:**

- a. Whenever archaeological resources are discovered in the process of development on shorelines, work on that portion of the development site shall be stopped immediately and the find reported as soon as possible to the City, the Washington State Department of Archaeology and Historic Preservation, and affected tribes. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data is properly salvaged.
- b. 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 construction necessary to protect the project property may be exempted from the shoreline substantial development permit requirement. The City shall notify the State Department of Ecology, the State Attorney General's Office, the Department of Archaeology and Historic Preservation, and affected tribes within one (1) month of granting the exemption.

- c. Upon receipt of a positive determination of a property's significance, or if available information suggests that a negative determination is erroneous, the Shoreline Administrator may require that a historic property management plan be prepared by a qualified professional archaeologist if such action is reasonable and necessary to implement related program objectives.
4. Interpretive signs of historical and archaeological features shall be provided when appropriate.

## 5.11 Emergency Actions

1. Actions taken to address an emergency shall be reasonable under the circumstances; be designed to have the least possible impacts on shoreline ecological functions and processes; and be designed to comply with the provisions of this Master Program, to the extent feasible.
2. Emergency actions shall follow the procedures outlined in SMC 21.64.071(A), Emergency Actions.

## 5.12 Public Access

1. Dedicated space for physical public access shall be required to the extent allowed by law in the review of all shoreline substantial development or conditional use permits in the following circumstances:
  - a. The use or development is a public project; or
  - b. The project is a water-enjoyment or nonwater-oriented use or development; or
  - c. The project is a residential development of more than four (4) dwelling units; or
  - d. The project is a subdivision of land into more than four (4) parcels; or
  - e. The project is a private water-dependent or water-related use or development and one of the following conditions exists:
    - i. The project increases or creates demand for public access;
    - ii. The project impacts or interferes with existing access by blocking access or discouraging use of existing access;
    - iii. The project impacts or interferes with public use of waters subject to the Public Trust Doctrine.

2. The City bears the burden of demonstrating that a proposed use or development meets any of the preceding conditions.
3. The public access requirement pursuant to Section 5.12 Regulation #1 is met where a residential development of greater than four (4) parcels/dwelling units but less than ten (10) parcels/dwelling units provides community access to the shoreline or to a common waterfront lot/tract for noncommercial recreational use of the property by property owners, residents and guests within the proposed subdivision or multi-family development. The proponent shall provide visual access to the shoreline via view corridors within the subdivision/multi-family development as illustrated on the final plan and as determined by the Shoreline Administrator. Existing lawfully established public access shall be maintained.
4. Public access to the shoreline shall not be required of the following:
  - a. Activities qualifying for a shoreline exemption, per Section 2.3;
  - b. New single-family residential development of four (4) or fewer units; or
  - c. More effective public access is provided through a City of Shelton public access planning process consistent with WAC 173-26-221(4)(c).
5. The Administrator may approve alternatives to on-site, physical public access to the shoreline if the applicant can demonstrate with substantial and credible evidence that one or more of the following conditions exist:
  - a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any reasonable means;
  - b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
  - c. The cost of providing the access, easement, or an alternative amenity, is unreasonably disproportionate to the total long-term cost of the proposed development;
  - d. Environmental impacts that cannot be mitigated, such as damage to spawning areas or nesting areas, would result from the public access;
  - e. Significant undue and unavoidable conflict between any access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated; and
6. In order to meet any of the conditions under Section 5.12 Regulation #5 above, the applicant must first demonstrate and the City must determine in its findings that all reasonable alternatives have been exhausted, including but not limited to:

- a. Regulating access by such means as maintaining a gate and/or limiting hours of use;
  - b. Designing separation of uses and activities (e.g., fences, terracing, hedges, landscaping, etc.); and
  - c. Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.
7. When on-site, physical public access is deemed to be infeasible based on considerations listed in Sections 5.12 Regulation #5 and 6, the applicant must demonstrate and the City must determine in its findings that visual access to the shoreline, physical access at an off-site location geographically separated from the proposed use/development (e.g., street end, vista, trail system), or community access for residential developments are not feasible. Community access must be provided to the shoreline or to a common waterfront lot/tract for noncommercial recreational use by property owners, residents and guests within the residential development.
8. Public access associated with public projects should be consistent with the following, to the extent feasible:
  - a. Development shall be located, designed, and managed so that impacts on public use of the shoreline are minimized.
  - b. Trails and uses near the shoreline shall be landscaped or screened to provide visual and noise buffering between adjacent dissimilar uses or scenic areas, without blocking visual access to the water.
9. The design of shoreline uses shall consider steps to minimize blocking, reducing, or adversely interfering with the public's physical access to the water.
10. Public access provided by shoreline street ends, public utilities and rights-of-way shall not be diminished (RCW 35.79.035 and RCW 36.87.130).
11. Public access sites shall be connected directly to the nearest public street and shall include provisions for handicapped and physically impaired persons where feasible or required by law.
12. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity.
13. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of a plat or short plat as a condition running concurrently with the authorized land use, at a minimum. Said recording with the County Auditor's Office shall occur at the time of permit approval (RCW 58.17.110).



14. The standard state approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the City in conspicuous locations at public access sites. In accordance with Section 5.12 Regulation #6.a., signs may control or restrict public access as a condition of permit approval.
15. Future actions by the applicant successors in interest or other parties shall not diminish the usefulness or value of the public access provided.
16. Existing, formal public access shall not be eliminated unless the applicant shows that there is no feasible alternative and replaces the public access with access of comparable functions and value at another location. Requirements or conditions for public access shall be consistent with all relevant constitutional and other legal limitations on regulation of private property.

## **Attachment 4**

### **Chapter 6 of the City of Shelton Shoreline Master Program**

**(2020/21 Shoreline Master Program Periodic Update  
Draft, January 2021)**

# **CHAPTER 6**

## **SPECIFIC SHORELINE USE AND MODIFICATION REGULATIONS**

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### **6.1 General Provisions**

1. This chapter contains the regulations that apply to specific uses, developments, and activities in the shoreline jurisdiction.
2. These regulations are intended to work in concert with all sections of this Program and in particular the Goals and Policies (Chapter 3) and General Use and Development Regulations (Chapter 5).









### **6.2 Shoreline Use and Modification Table**

1. Shoreline modification activities must be in support of an allowable shoreline use that conforms to the provisions of this Master Program. Except as otherwise noted, all shoreline modification activities not associated with a legally existing or an approved shoreline use are prohibited.
2. Shoreline uses and developments prohibited by this Master Program shall not be considered as a variance or a conditional use.
3. Each shoreline designation shall be managed in accordance with its designated purpose as described in this Program. Tables 6-1 and 6-2 identify those uses and modifications that are permitted, may be permitted with a conditional use approval, or are prohibited in each shoreline designation. In the event conflicts exist between the Tables and the text in this chapter, the text shall apply.

Table 6-1. Shoreline Use Matrix

Shoreline Designation	Legend:		Urban Industrial	Urban Multi-purpose	Urban - Goldsborough Creek	Conservancy	Residential	Aquatic - Harbor <sup>6</sup>	Aquatic - Conservancy <sup>6</sup>
	P - Permitted	X - Prohibited							
C - Conditional Use									
Agriculture	X			X	X	P	P	X	X
Aquaculture	P			P	X	X	X	C <sup>1</sup> /P <sup>7</sup>	C <sup>1</sup>
Boating Uses:									
Boat Houses		P <sup>7</sup>		P <sup>7</sup>	X	X	X	P <sup>7</sup>	X
Motorized Boat Launches		P		P	X	X	P <sup>8</sup>	P	P <sup>10</sup>
Nonmotorized Boat Launches		C		P	X	P	P	P	P
Marinas		P		P	X	X	X	P	X
Docks, Piers and Mooring Buoys		P		P	X	X	P	P	C <sup>10</sup>
Commercial Uses:									
Water-dependent		P		P	P	X	X	P <sup>3</sup>	X
Water-related		P		P	P	X	X	C	X
Water-enjoyment		C		P	P	X	X	C	X
Nonwater-oriented		C <sup>2</sup>		C <sup>2</sup>	P <sup>2</sup>	X	X	X	X
Forest Practices		X		P	P	P	X	X	X
Industrial Uses:									
Water-oriented		P		P <sup>9</sup>	X	X	X	P <sup>3</sup>	X
Nonwater-oriented		C		X	X	X	X	X	X
Log Storage		P		P <sup>9</sup>	X	X	X	P <sup>5</sup>	P <sup>5</sup>
Log Rafting		P		P <sup>9</sup>	X	X	X	P <sup>5</sup>	P <sup>5</sup>
Institutional Uses:									
Water-oriented		P		P	P	P	P	P <sup>3</sup>	C <sup>3</sup>
Nonwater-oriented		P <sup>2</sup>		P	P <sup>2</sup>	X	C	X	X
Mining		X		X	X	X	X	X	X
Parking:									
Primary Use		X		X	X	X	X	X	X
Accessory Use		P		P	P	X	P	X	X



Legend: P - Permitted X - Prohibited C - Conditional Use	Shoreline Designation		Urban Industrial	Urban Multi-purpose	Urban - Goldsborough Creek	Conservancy	Residential	Aquatic - Harbor <sup>6</sup>	Aquatic - Conservancy <sup>6</sup>
Recreational Uses:									
Water-dependent		C	P	P	P	P	P	P <sup>3</sup>	P <sup>3</sup>
Water-related/enjoyment (trails, accessory buildings)		C	P	P	P	P	P	X	X
Nonwater-oriented (sports fields)		X	P	P	P	X	P	X	X
Residential Development		X	P	P	P	P	P	X	X
<u>Floating, on-water, Residences.</u>									
Signs		P	P	P	P	X <sup>4</sup>	X <sup>4</sup>	X <sup>4</sup>	X <sup>4</sup>
Transportation Uses:									
Water-dependent		P	P	P	P	C	P	P <sup>11</sup>	P <sup>11</sup>
Non-water dependent		P	P	P	P	C	P	C <sup>11</sup>	C <sup>11</sup>
Railroads		P	P	P	P	C	C	C <sup>11</sup>	C <sup>11</sup>
Utilities		P	P	P	P	C	C	C	C
Unclassified Uses		C	C	C	C	C	C	C	C

**NOTES:**

1. Conditioned upon the requirement that operations do not significantly conflict with navigation, boating or industrial activities.
2. May be permitted as part of a mixed-use project including water-dependent uses, on sites where navigability is severely limited, or in areas physically separated from the shoreline by another property or public right-of-way.
3. Water-dependent uses may be permitted provided the City finds that the specific function (e.g., log loading, ship docking, view platform) cannot be located on land.
4. Directional signs and navigational aids may be permitted.
5. Conducted at a depth such that the log rafts will not ground out at extreme low water (approximately -4.5 feet).
6. The use may be allowed in the Aquatic designation only if permitted or conditionally permitted in the adjacent upland designation.
7. Maintenance, repair and replacement of existing boathouses are permitted. No new overwater boathouses are permitted. Up to 10 boathouses may be converted to a shellfish nursery use within the Port of Shelton Marina as a permitted use in compliance with Section 6.5, Aquaculture. No additional boathouses or boat slips may be converted. Additional uses of this nature would require that a permit request be submitted for consideration of a separate commercial dock/float at the facility to accommodate the increased demand.
8. Only public boat launches are permitted.

9. Industrial uses are not allowed within the shoreline jurisdiction of Goose Lake.
10. Only permitted within the shoreline jurisdiction of Island Lake and Goose Lake. On Goose Lake docks, piers and mooring buoys must be public.
11. Roads, railroads, and other transportation facilities are prohibited over water, EXCEPT to serve water-dependent or public uses consistent with this Program when inland alternatives are unfeasible or for water crossings.

Table 6-2. Shoreline Modification Matrix

Legend: P - Permitted X - Prohibited C - Conditional Use	Shoreline Designation						
	Urban Industrial	Urban Multi-purpose	Urban - Goldsborough Creek	Conservancy	Residential	Aquatic - Harbor	Aquatic - Conservancy
Dredging, Maintenance Dredging, and Dredge Material Disposal	P/C	P	P	X	X	P	P
Dredging and Disposal as part of Ecological Restoration/Enhancement	P	P	P	P	P	P	P
Flood Control Works and In-stream Structures							
Dikes & Levees	P	C	C	X	P	C	C
In-stream Structures	P	P	C	C	P	P	C
Shoreline Restoration and Enhancement	P	P	P	P	P	P	P
Shoreline Stabilization:							
Bioengineered Shoreline Stabilization	P	P	P	P	P	P	P
Structural Shoreline Stabilization	P	P	P	X	P	P	X
Breakwaters, Jetties, Weirs, Groins	P	C	X	X	X	C	X

## 6.3 Buffer and Bulk Dimensional Standards Table

Buffers and dimensional standards are required for new developments within the City's shoreline jurisdiction. Table 6-3 establishes buffer, building setbacks, lot coverage, and building height standards by shoreline environment designation.

**Table 6-3. Buffer and Bulk Dimensional Standards**

SEDs	Critical Area Buffer <sup>1, 2</sup>	Building Setback <sup>3</sup>	Maximum Impervious Surface <sup>4</sup>	Maximum Structure Height
Urban Industrial	(See SMC 21.64.320)	10 feet (See 21.64.086)	Per zoning standards	50 feet. Conditional Use Permit for structures proposed over 50 feet in height.
Urban Multi-purpose	(See SMC 21.64.320)	10 feet (See 21.64.086)	30% for Goose Lake <sup>5</sup> Per zoning standards for all other areas	50 feet. Conditional Use Permit for structures over 50 feet in height.
Urban Goldsborough Creek	(See SMC 21.64.320)	10 feet (See 21.64.086)	50%	35 ft
Conservancy	(See SMC 21.64.320)	10 feet (See 21.64.086)	10%	35 ft
Residential	(See SMC 21.64.320)	10 feet (See 21.64.086)	50%	35 ft
Aquatic Harbor	N/A	N/A	N/A	N/A
Aquatic Conservancy	N/A	N/A	N/A	N/A

<sup>1</sup>Alternative buffers may be allowed pursuant to SMC 21.64.320C. Buffer averaging may be allowed pursuant to SMC 21.64.325. Buffers may be increased pursuant to SMC 21.64.326.

<sup>2</sup>Certain actions and activities are allowed in the required shoreline buffer pursuant to SMC 21.64.071 and SMC 21.64.330.

<sup>3</sup>Certain facilities and uses are allowed in the building setback pursuant to SMC 21.64.086.

<sup>4</sup>The impervious surface area is calculated by dividing the total area of impervious surface (e.g., driveways, buildings, patios, parking lots) located in shoreline jurisdiction by the total lot area that is within shoreline jurisdiction and then multiplied by one-hundred (100) to convert to percentage points.

<sup>5</sup>Planned unit developments may exceed the 30 percent maximum impervious surface standard on individual lots, provided the entire Goose Lake shoreline jurisdiction does not exceed 30 percent in total impervious surfaces.



## 6.4 Agriculture

### 6.4.1 Applicability

Agriculture activities are agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation (WAC 173-26-020). Christmas tree farming (silviculture) policies and regulations are covered under Forest Practices in Section 6.9.

Agricultural activities associated with residential uses and for the primary purpose of household consumption are subject to the underlying zoning regulations.

In accordance with RCW 90.58.065, this Master Program does not regulate existing or ongoing agricultural activities occurring on agricultural lands. However, new agricultural use and development on lands not meeting the definition of agricultural land, conversions of agricultural lands to other uses, and development not meeting the definition of agricultural activities must comply with this Master Program.

### 6.4.2 Regulations

1. Agricultural development shall conform to applicable state and federal policies and regulations including but not limited to the following:
  - a. Erosion control guidelines and standards of the Soil Conservation Service and U.S. Department of Agriculture;
  - b. Feedlot control guidelines of the U.S. Environmental Protection Agency; (see "Guidelines for Handling Livestock Wastes for Western Washington", distributed by the Washington State Department of Ecology in conjunction with the United States Environmental Protection Agency for the Cooperative Extension Service);
  - c. Washington Pesticide Application Act (Chapter 17.21 RCW);
  - d. Washington Pesticide Act (Chapter 15.57 RCW);

- g. State Board of Health Water Supply Rules and Regulations; and
- 2. In accordance with RCW 90.58.065, this Program shall not restrict existing or ongoing agricultural activities occurring on agricultural lands.
- 3. New agricultural use and development on lands not meeting the definition of agricultural land may be allowed when it complies with this Program and all of the following regulations:
  - a. Agricultural practices shall prevent erosion of soils and bank materials within shoreline areas and minimize siltation, turbidity, pollution, and other environmental degradation of watercourses and wetlands.
  - b. Streambanks and water bodies shall be protected from damage due to concentration and overgrazing of livestock by providing the following:
    - i. Suitable bridges, culverts or ramps for stock crossing;
    - ii. Ample supplies of clean water in tanks on dry land for stock watering; and
    - iii. Fencing or other grazing controls to prevent damage to riparian vegetation, bank compaction or bank erosion.
  - c. New confinement lots, feeding operations, lot wastes, stockpiles of manure solids, manure lagoons, and storage of noxious chemicals are prohibited.
  - d. The disposal of farm wastes, chemicals, fertilizers and associated containers and equipment within shoreline jurisdiction is prohibited. However, composted organic wastes may be used for fertilization or soil improvement.
  - e. A buffer of naturally occurring or planted native vegetation shall be maintained between the shoreline and areas used for crops or intensive grazing. The width of the buffer on marine, river and lake shorelines shall correspond to the standards of the Program and as required by Chapter 21.64 (Critical Areas) of the Shelton Municipal Code.
  - f. Conversion of agricultural lands to other uses shall comply with the provisions of this Program for the proposed new use.
  - g. Construction of new structures including residences, barns, sheds and similar buildings on agricultural lands shall conform to the requirements of this Program. Such structures shall adhere to the buffer and setback requirements, height limits and other regulations established by this Program.

## 6.5 Aquaculture

### 6.5.1 Applicability

Aquaculture is the farming or culturing of fish, shellfish or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. Activities include the hatching, cultivating, planting, feeding, raising and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings and growing areas. Cultivation methods include but are not limited to fish pens, shellfish rafts, racks and long lines, seaweed floats and nets, and the culture of clams and oysters on tidelands and subtidal areas. Aquaculture is a preferred shoreline use when operations do not damage the environment and are consistent with pollution control requirements (WAC 173-26-241(3)b).

### 6.5.2 Regulations - General

1. Applicants shall include in their applications all information needed to conduct thorough evaluations of their aquaculture proposals. To minimize redundancy, applicants may rely on documentation that has been submitted to other permitting agencies where applicable. Applications may include the following:
  - a. Copies of permit applications and/or studies required by state and federal agencies;
  - b. Species to be reared;
  - c. Anticipated harvest cycles and potential plans for future expansion or change in species grown or harvest practices;
  - d. Aquaculture method(s), including number, types and dimensions of structures, apparatus and/or equipment;
  - e. Anticipated use of any feed, pesticides, herbicides, antibiotics, or other substances, and their predicted impacts;
  - f. Manpower/employment necessary for the project;
  - g. Harvest and processing location, method and timing;
  - h. Anticipated levels of noise, light and odor and plans for minimizing their impacts;
  - i. Location and plans for any shoreland activities, including loading, unloading and product processing;



- j. Amount of marine and truck or other vehicle traffic that will occur during the regular operation of the facility;
  - k. Methods of traffic control, waste disposal and predator control;
  - l. Environmental assessment, including best available background information on water quality, tidal variations, prevailing storm wind conditions, current flows, flushing rates, aquatic and benthic organisms, and probable impacts on water quality, biota, currents, littoral drift, and any existing shoreline or water uses. Further baseline studies may be required depending upon the adequacy of available information, existing conditions, the nature of the proposal, and probable adverse environmental impacts. Baseline monitoring shall be at the applicant's expense unless otherwise provided for;
  - m. Method of disposal of dead fish to control noxious odors; and
  - n. Other pertinent information deemed necessary by the City such as noise generation and visual impact.
- 2. Permit applications shall also identify all pesticides, herbicides, antibiotics, vaccines, growth stimulants, anti-fouling agents, or other chemicals that the applicant anticipates using. Such materials shall not be used until approval is obtained from all appropriate state and federal agencies, including but not limited to the U.S. Food and Drug Administration, the Washington State Departments of Ecology, Fisheries and Wildlife, and Agriculture, as required, and proof thereof is submitted to the City. When feasible, the cleaning of nets and other apparatus shall be accomplished by air drying, spray washing, or hand washing, rather than chemical treatment and application.
  - 3. Permit applications shall identify any noise generation associated with the project and also the amount of marine and truck or other vehicle traffic that will occur during the regular operation of the facility.
  - 4. The location of floating and submerged aquaculture structures shall not significantly conflict with navigation and other water-dependent uses. Floating structures shall remain shoreward of principal navigation channels. Other restrictions on the scale of aquaculture activities to protect navigational access may be necessary based on the size and shape of the affected water body.
  - 5. Subtidal, intertidal, floating, and upland structures and apparatus associated with aquaculture use shall be located, designed and maintained to avoid adverse effects on ecological functions and processes.
  - 6. The City shall consider the location of proposed aquaculture facilities/farms to prevent adverse cumulative effects on ecological



functions and processes and adjoining land uses. The City shall determine what constitutes acceptable placement and concentration of commercial aquaculture based on the specific characteristics of the water body, reach, drift cell, and uplands in the vicinity of the farm/facility. In making its determination, the City may solicit comments from federal agencies such as U.S. Fish and Wildlife Service, State agencies such as the Washington Department of Fish and Wildlife, and affected tribes.

7. Aquaculture use and development shall be sited so that shading and other adverse impacts to existing eelgrass, kelp, or native shellfish beds are avoided, minimized, and mitigated consistent with Section 5.4.
8. Aquaculture uses and developments that require attaching structures to the bed or bottomlands shall use anchors, such as helical anchors, that minimize disturbance to substrate.
9. No aquatic organism shall be introduced into City waters without prior written approval of the Washington Department of Fish and Wildlife for the specific organism proposed for introduction, including import and transfer permits under WAC 220-76-100 and WAC 220-72-076. The required approval shall be submitted in writing to the Shoreline Administrator prior to the introduction or the granting of the permit, whichever comes first. Unless otherwise provided in the shoreline permit issued by the City, the repeated introduction of an approved organism in the same location shall require approval by the City only at the time the permit is issued. Introduction for purposes of this section shall mean the placing of any aquatic organism in any area within the waters of the City regardless of whether it is a native or resident organism and regardless of where it is being transferred from.
10. Aquacultural structures and activities that are not water-dependent (e.g., warehouses for storage of products, parking lots) shall be located landward of the OHWM, upland of water-dependent portions of the project, and shall minimize detrimental impacts to the shoreline.
11. Aquacultural structures and equipment shall be of sound construction and shall be so maintained. Abandoned or unsafe structures and equipment shall be removed or repaired promptly by the owner.
12. Legally established aquacultural enterprises, including authorized experimental projects, shall be protected from incompatible uses which may seek to locate nearby. Demonstration of a high probability that such an adjacent use would result in damage to or destruction of such an aquacultural enterprise shall be grounds for the denial of that use.
13. Operational monitoring may be required if and to the extent that it is necessary to determine, ensure or confirm compliance with predicted or

required performance. Such monitoring requirements shall be established as a condition of the permit and shall be conducted at the applicant's (operator's) expense.

14. Processing of any aquacultural product, except for the sorting or culling of the cultured organisms and the washing or removal of surface materials or organisms, shall not occur in or over the water after harvest, unless specifically approved by permit. All other processing and processing facilities shall be located on land and shall be governed by, in addition to these provisions, the policies and regulations of other applicable sections of this Master Program, in particular, provisions addressing commercial and industrial uses.
15. Aquacultural wastes shall be disposed of in a manner that will ensure compliance with all applicable governmental waste disposal standards, including but not limited to the Federal Clean Water Act, Section 401, and the Washington State Water Pollution Control Act (RCW 90.48). No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.
16. Hatchery and other aquaculture operations shall be required to maintain a minimum fifty (50) foot wide vegetated buffer zone along the affected streamway or the buffer required by Table 6.3, whichever is larger, PROVIDED that clearing of vegetation shall be permitted for essential water access points.
17. For aquacultural projects using overwater structures, storage of necessary tools and apparatus seaward of the ordinary high water mark shall be limited to containers of not more than three (3) feet in height, as measured from the surface of the raft or dock; provided that in locations where the visual impact of the proposed aquaculture structures will be minimal, the City based upon written findings and without requiring a variance may authorize storage containers of greater height. In such cases, the burden of proof shall be on the applicant. Materials which are not necessary for the immediate and regular operation of the facility shall not be stored seaward of the ordinary high water mark.
18. Aquaculture use and development shall employ nonlethal, nonharmful measures to control birds and mammals. Control methods shall comply with existing federal and state regulations.
19. Fish net-pens shall meet, as a minimum, state approved administrative guidelines for the management of net-pen cultures; where any conflict in requirements arises the more stringent requirement shall prevail.
20. Aquacultural proposals that include net pens or rafts shall satisfy the environmental and aesthetic concerns expressed in this Master Program



shall be addressed. The burden of proof shall be on the applicant to demonstrate that the cumulative impacts of the existing and proposed operations would not be contrary to the policies and regulations of this Master Program.

21. For floating culture facilities the City shall reserve the right to require a visual impact analysis consisting of information comparable to that found in the Department of Ecology's *Aquacultural Siting Study* (1986). Such analysis may be prepared by the applicant, without professional assistance, provided that it is competently prepared. The analysis shall demonstrate that adverse impacts on the character of nearby areas are effectively mitigated.

### 6.5.3 Regulations - Commercial Geoduck Aquaculture

1. Commercial harvesting of geoduck shall be permitted subject to the Washington State Departments of Natural Resources and Fish and Wildlife contract and controlling regulations, and state and county public health requirements, as applicable.
  - a. A conditional use permit is required for new commercial geoduck aquaculture and the conversion of an existing nongeoduck aquaculture operation to geoduck aquaculture.
  - b. All subsequent cycles of planting and harvest shall not require a new conditional use permit.
  - c. A single conditional use permit may be submitted for multiple sites within an inlet, bay or other defined feature, provided the sites are all under control of the same applicant and within the same shoreline permitting jurisdiction.
  - d. In addition to complying with the requirements of Chapter 173-27 WAC, the application must contain:
    - i. A narrative description and timeline for all anticipated geoduck planting and harvesting activities. Documentation submitted to state and/or federal permit agencies for the proposal may be used to satisfy this requirement.
    - ii. A baseline ecological survey of the proposed site to allow consideration of the ecological effects associated with the proposal. Documentation submitted to state and/or federal permit agencies for the proposal may be used to satisfy this requirement.

- iii. Measures to achieve no net loss of ecological functions consistent with the mitigation sequence described in WAC-173-26-201 (2)(e).
- iv. Management practices that address impacts from mooring, parking, noise, lights, litter, and other activities associated with geoduck planting and harvesting operations.
- e. On-site work is allowed during low tides, which may occur at night or on weekends. Measures to reduce impacts, from such sources as noise from equipment and glare from lighting, to adjacent existing uses shall be identified.
- f. All commercial geoduck aquaculture operations authorized by a conditional use permit shall be reviewed by the City after the first year of operation to confirm compliance with the terms and conditions of the permit. In reviewing the permit, the City shall solicit comments from all parties of record to the approved conditional use permit.
- g. Conditional use permits shall be reviewed using the best scientific and technical information available.
- h. Best management practices shall be employed to accomplish the intent of the limits and conditions.
- i. In order to avoid or limit impacts from geoduck aquaculture siting and operations and achieve no net loss of ecological functions, the following should be addressed:
  - i. The practice of placing nursery tanks or holding pools or other impervious materials directly on the intertidal sediments.
  - ii. Use of motorized vehicles, such as trucks, tractors and forklifts below the ordinary high water mark.
  - iii. Specific periods when limits on activities are necessary to protect priority habitats and associated species. The need for such measures should be identified in the baseline ecological survey conducted for the site.
  - iv. Alterations to the natural condition of the site, including significant removal of vegetation or rocks and regrading of the natural slope and sediments.
  - v. Installation of property corner markers that are visible at low tide during planting and harvesting.
  - vi. Mitigation measures such as buffers between commercial geoduck aquaculture and other fish and wildlife habitat conservation areas as necessary to ensure no net loss of ecological functions.



- vii. Use of predator exclusion devices with minimal adverse ecological effects and requiring that they be removed and disposed of at an approved upland location as soon as they are no longer needed for predator exclusion.
- viii. Use of the best available methods to minimize turbid runoff from the water jets used to harvest geoducks.
- ix. Number of barges or vessels that can be moored or beached at the site as well as duration limits.
- x. Public rights to navigation over the surface of the water.
- xi. Good housekeeping practices at geoduck aquaculture sites, including worker training and regular removal of equipment, tools, extra materials, and all wastes.
- j. Where the site contains existing public access to publicly owned lands, the City shall consider recommendations from the Department of Natural Resources regarding protection of the existing public access.

## 6.6 Boating Facilities

### 6.6.1 Applicability

Boating facilities include marinas, both backshore and foreshore, dry storage and wet moorage types, liveaboards, boat launches, covered moorage, boathouses, mooring buoys, marine travel lifts, floats, piers and docks. Piers and docks are structures which abut the shoreline and can be used for public access and/or as a landing or moorage place for commercial and/or pleasure craft. Piers are built on fixed platforms above the water, while docks float on the water. Piers and docks can be utilized for commercial, industrial or recreational purposes and often serve several uses.

Uses and activities associated with boating facilities that are identified separately in Chapters 5 and 6 (for example, Bulkheads; Breakwaters, Commercial Development, Industrial Development, Jetties and Groins; Dredging; Fill; and Utilities) are subject to the policies and regulations established for those uses as well as the boating facility provisions established in this section.

A marina is a water-dependent use that consists of a system of piers, buoys, or floats providing permanent or long-term moorage for ten (10) or more vessels. Community moorage facilities, yacht club facilities, and camp or resort moorage areas providing moorage for ten (10) or more vessels shall be reviewed as marinas under this Master Program. Uses and developments commonly associated with

marinas include boat launch facilities and businesses that provide services and supplies for small commercial and/or pleasure craft.

The following regulations apply to the construction, expansion and maintenance of all boating facilities and their accessory uses unless otherwise stated.

**Note: The Department of Natural Resources should be contacted for all projects involving the use of state-owned aquatic lands.**

## 6.6.2 Regulations - General

1. All boating facility development and/or renovations shall comply with all other applicable state agency policies and regulations.
2. All facilities shall be constructed so as not to interfere with or impair the navigational use of surface water.
3. New boating facilities shall be designed so they will be aesthetically compatible with or will enhance existing shoreline features and uses.
4. The shoreline shall be stabilized both above and below the water's edge both during and after all boating facility construction.
5. New overwater parking facilities shall be prohibited.
6. Short-term loading areas may be located at ramps or near berthing areas. For new facilities, long-term parking and paved storage areas shall be located as far from the OHWM as is feasible.
7. To the maximum extent possible, new boating facilities and accessory uses shall share parking facilities, with boating facility usage given preference.

## 6.6.3 Regulations - Boathouses and Covered Moorage

1. Legally permitted covered moorage and boathouses that were in lawful existence as of December 1, 2013, may continue subject to the requirements of this Master Program and the following restrictions:
  - a. Existing covered moorage and boathouses shall not increase overwater coverage unless part of a comprehensive review of a public marina plan and ensures no net loss of shoreline ecological functions;
  - b. All work and materials shall be performed using best management practices;
  - c. Existing structures may be repaired;

- d. Walls and fences for covered moorage shall be prohibited above deck or float level, except that handrails which are open in nature and not higher than forty-two (42) inches above the deck or float may be permitted; and
  - e. Existing covered moorage and boathouses may be relocated and reconfigured within an approved marina if the relocation and reconfiguration results in an improvement to shoreline ecological functions.
  - f. Up to 10 boathouses may be converted to a shellfish nursery use within the Port of Shelton Marina as a permitted use in compliance with Section 6.5, Aquaculture. No additional boathouses or boat slips may be converted. Additional uses of this nature would require that a permit request be submitted for consideration of a separate commercial dock/float at the facility to accommodate the increased demand.
2. New covered moorage for boat storage and new overwater boat houses shall be prohibited.
  3. The restrictions in Section 6.6.3, Regulation #2 shall not apply to over-water structures housing water-dependent emergency response equipment for public agency use to protect people, property, and the environment in and adjacent to shoreline jurisdiction. However, such new, remodeled, rebuilt, or relocated structures shall be constructed to allow sixty percent (60%) light penetration over sixty percent (60%) of the structure whether enclosed or not.
  4. Commercial covered moorage facilities may be permitted only where boat construction or repair work is to be the primary activity and covered work areas are demonstrated to be the minimum necessary over water, including a demonstration that adequate upland sites are not feasible. When permitted, commercial covered moorage facilities must be constructed to allow sixty percent (60%) light penetration over sixty percent (60%) of the structure, whether enclosed or not.

#### 6.6.4 Regulations - Boat Launch Ramps

1. Preferred ramp designs, in order of priority, are:
  - a. Open grid designs with minimum coverage of beach substrate;
  - b. Seasonal ramps that can be removed and stored upland; and
  - c. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in beach profile.



- d. Other ramp designs may be considered provided the City of Shelton finds the preferred ramp designs are infeasible and the proposed ramp design ensures no net loss of ecological functions as supported by a Critical Areas Report.
2. Ramps shall be placed and maintained near flush with the foreshore slope, where feasible.
3. In addition to requirements of this section, SMC 21.64.330(F) and (I) shall apply, where feasible.

### 6.6.5 Regulations - Marinas

1. The City shall require and use the following information in its review of marina proposals:
  - a. Existing natural shoreline and backshore features and uses, and water depth;
  - b. Water processes and flushing characteristics, volume, rates and frequencies;
  - c. Biological resources and habitats for the backshore, foreshore and aquatic environments;
  - d. Area of surface waters appropriated, and leased areas;
  - e. Site orientation; exposure to wind, waves, flooding or tidal/storm surges; type and extent of shore defense works or shoreline stabilization and flood protection necessary;
  - f. Impact upon existing and created demand for shoreline and water uses including public access and recreation and views;
  - g. The regional need for additional facilities; and
  - h. The design of the facilities, including sewage disposal, water quality controls, provisions for the prevention and control of fuel spillage.

#### 6.6.5.1 *Location*

1. Deteriorated urban waterfront areas in need of restoration and where channel depths are such that commercial activity is no longer feasible shall be given priority consideration for potential marina sites.
2. Boats shall be dry stored whenever possible to retain shoreline for other water-dependent uses.
3. Marinas shall take all reasonable steps to locate in areas where fill is not required and should be located in water of sufficient depth such that dredging is not required. Where these modifications are unavoidable,



marinas shall locate on stable shorelines where water depths avoid and minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, dredge material disposal, filling, and channel maintenance activities.

4. Marinas shall be located so as not to adversely affect flood channel capacity or otherwise create a flood hazard.
5. Marinas or launch ramps shall not be permitted on the following marine shores unless it can be demonstrated that interference with littoral drift and/or degradation or loss of shoreline ecological functions and processes, especially those vital to maintenance of nearshore habitat, will not occur. Such areas include:
  - a. Feeder bluffs; and
  - b. High-energy input driftways.
6. Marinas or launch ramps shall not be permitted within the following marine shoreline habitats because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this Program:
  - a. Marshes, estuaries and other wetlands;
  - b. Kelp beds, eelgrass beds, spawning and holding areas for forage fish (such as herring, surf smelt and sandlance); and
  - c. Other critical saltwater habitats.
7. Marinas or launch ramps may be permitted on low-erosion rate marine feeder bluffs or on low-energy input erosional driftways if the proposal is otherwise consistent with this Program.
8. Where marinas are permitted, the following conditions shall be met:
  - a. Open pile or floating breakwater designs shall be used unless it can be demonstrated that riprap or other solid construction would not result in any greater net impacts to shoreline ecological functions or processes or shore features; and
  - b. Solid structures that block fish passage shall not be permitted to extend without openings from the shore to zero tide level (Mean Lower Low Water, or MLLW), but shall stop short to allow sufficient shallow fringe water for fish passage.
9. Marinas shall be designed to allow the maximum possible circulation and flushing of all enclosed water areas.

10. New or expanding marinas with dredged entrances that adversely affect littoral drift to the detriment of other shores and their users shall be required to periodically replenish such shores with the requisite quantity and quality of aggregate as determined by professional coastal geologic engineering studies.

#### **6.6.5.2    *Design, Renovation, Expansion***

1. The marina design shall minimize interference with existing shore forms and natural coastal processes.
2. Public access, both visual and physical, shall be an integral part of all marina development. Marinas shall be designed so that existing or potential public access along beaches is not unnecessarily blocked nor made dangerous and public use of the surface waters below the ordinary high water mark is not unduly impaired.
3. Marinas shall have adequate facilities and post the operational procedures for fuel and sewage handling and storage to prevent and minimize accidental spillage.
4. Marinas shall have facilities, equipment and posted procedures for the containment, recovery and mitigation for spilled petroleum, sewage and toxic products and debris from maintenance and repair.
5. Marina operators shall post signs, containing the following information, where they are readily visible to all marina users:
  - a. Regulations pertaining to handling and disposal of waste, including grey water, sewage and toxic materials;
  - b. Regulations prohibiting the use of marine toilets while moored unless these toilets are self-contained or have an approved treatment device;
  - c. Regulations prohibiting the disposal of fish and shellfish cleaning wastes, scrap fish, viscera or unused bait in or near the marina waters; and
  - d. Rules and best management practices for boat maintenance and repairs on site.

#### **6.6.5.3    *Utilities***

1. New or expanded marinas shall have accessible boat sewage disposal systems or services available to all marina users. Such systems or services shall be conveniently located for all boats.

2. The marina shall provide facilities for the adequate collection and dumping of marina-originated materials including but not limited to sewage, solid waste and petroleum waste.
3. Adequate and satisfactory means for handling accidental fuel and chemical spills must be provided.
4. All marinas shall provide restrooms for all boaters' use. The restrooms shall be identified by signs and shall be accessible to tenants 24 hours a day and open to day users those hours of operation that boating services are open to the public such as gas dock, ramp, or hoist.

#### 6.6.5.4 *Liveaboards*

1. Liveaboards (moored boats with residents living aboard) shall be limited to no more than ten percent (10%) of the total number of moorage slips, excluding persons in transit.
2. Any marina with liveboard vessels shall require:
  - a. That all liveboard vessels are connected to utilities that provide sewage conveyance to an approved disposal facility; or
  - b. That marina operators or liveaboards are contracted with a private pump-out service company that has the capacity to adequately dispose of liveboard vessel sewage; or
  - c. That a portable pump-out facility is readily available to liveboard vessel owners;
  - d. That all liveboard vessels shall have access to utilities that provide potable water;
  - e. That liveboard vessels are of the cruising type, and are kept in good repair and seaworthy condition.
3. Marinas with liveboard vessels shall only be permitted where compatible with the surrounding area and where adequate sanitary sewer facilities exist within the marina and on the liveboard vessel.

### 6.6.6 Regulations - Piers, Docks, Floats, and Buoys

#### 6.6.6.1 *General*

1. Proposals for floats, buoys, piers or docks shall include at a minimum the following information:



- a. Description of the proposed structure, including its size, location, design and any shoreline stabilization or other modification required by the project;
  - b. Ownership of tidelands, shorelands and/or bedlands;
  - c. Proposed location of piers, floats, buoys or docks relative to property lines and OHWM;
  - d. Location width, height and length of piers or docks on adjacent properties within three hundred (300) feet; and
  - e. Cost estimate.
2. Piers, floats, buoys, and docks shall not significantly interfere with use of navigable waters.
  3. In addition to requirements of this section, SMC 21.64.330(H) shall apply.

#### **6.6.6.2    *General Design and Construction Standards***

1. Pilings must be structurally sound prior to placement in the water.
2. Materials for any portions of the dock, pier, float, framing, or decking that come in contact with water shall be approved by applicable state agencies for use in water.
3. Pilings employed in piers docks, or floats shall have a minimum vertical clearance of two (2) feet above extreme high water.
4. All docks shall include stops that keep the floats off the bottom of tidelands at low tide or water level.
5. Recreational floats shall be located as close to the shore as possible and still accommodate intended use.

#### **6.6.6.3    *Accessory to Residential, Hotel, and Motel Use***

1. Mooring buoys shall be used instead of docks and piers whenever feasible.
2. Joint-use docks or piers are encouraged in-lieu of individual moorage facilities.
3. New docks or piers associated with single-family residences are allowed only as joint-use unless the applicant demonstrates that joint-use is not feasible.
4. Piers and docks associated with single-family residences are defined as water-dependent uses provided they are designed and intended as a facility for access to watercraft.



5. All hotels, motels, and multi-family residences proposing to provide moorage facilities shall be required to construct a single, community moorage facility provided that the City may authorize more than one community moorage facility if a single facility would be inappropriate or undesirable given the specific environmental conditions of the site.
6. Proposals for community piers and docks shall demonstrate and document that adequate maintenance of the structure and the associated upland area will be provided by identified responsible parties.
7. Single-user docks/piers/floats may be located within side yard setbacks for residential development (both onshore and offshore); provided that a joint-use dock/pier may be located adjacent to or upon a shared side property line upon recording of an agreement by the affected property owners with the Mason County Assessors Office.
8. To minimize adverse effects on nearshore habitats and species caused by overwater structures that reduce ambient light levels, the following dimensional standards shall apply:
  - a. The width of docks, piers, floats and lifts shall be the minimum necessary, and shall be authorized in the permitting documents approved by Washington Department of Fish and Wildlife and U.S. Army Corps of Engineers.
  - b. The length of docks and piers in the marine environment shall be the minimum necessary to prevent the grounding of floats and boats on the substrate during low tide. In fresh water, the length of new residential docks and piers shall be limited to the minimum necessary and shall not exceed the average length of the dock or pier on each adjacent parcel (or closest parcel with a dock/pier if the adjacent parcel does not have a dock/pier).
  - c. The applicant shall consider materials and methods of dock construction that increase light passage and limit overwater shading. This may be accomplished through grated decks or space between solid decking or other means.

#### **6.6.6.4 Commercial/Industrial Facilities**

These standards apply to piers and docks intended for any commercial or industrial use other than commercial moorage of boats in marinas.

1. Piers and docks shall be permitted for water-dependent and for multiple-use facilities if the majority use is water-dependent.
2. The length, width and height of nonresidential docks, piers and floats shall be no greater than that required for safety and practicality for the primary use.

3. Materials for any portions of a dock, pier, float, framing, or decking that come in contact with water shall be approved by applicable state agencies for use in water.
4. Joint-use piers shall be preferred for commercial and industrial developments which are in close proximity to one another.
5. Facilities and procedures for receiving, storing, dispensing and disposing of oil and other toxic products shall be designed and flood-proofed to insure that such oil and other toxic products are not introduced into the water body. Spill cleanup facilities shall be available for prompt response and application at all piers and docks involved in oil and hazardous products transfer.
6. Bulk storage for gasoline, oil and other petroleum products for any use or purpose is **prohibited** on piers and docks. Bulk storage means nonportable storage in fixed tanks.
7. Storage for boat fueling facilities shall be located landward of the OHWM and meet the applicable policies and regulations for utilities (accessory and primary), commercial and industrial development.

#### 6.6.6.5 *Repair, Replacement or Expansion*

1. Existing overwater structures may be repaired and/or replaced in the same location as the existing structure.
2. Repair or replacement of docks shall, at a minimum, require as much light penetration to water as the existing facility. The new design shall maintain, and to the extent practicable, increase the amount of ambient light beneath the structure.
3. Materials that come in contact with the water shall be approved by applicable state agencies for use in water.
4. Expansion of existing overwater structures shall follow the guidelines for newly constructed facilities for the expanded portion.
5. Other repairs not described in this section to existing legally established overwater structures are considered minor and may be permitted consistent with all applicable regulations.

### 6.7 **Commercial Uses**

### 6.7.1 Applicability

Commercial development includes uses that are involved in wholesale, retail, service and business trade. Examples include hotels, motels, grocery markets, shopping centers, restaurants, shops, offices and private or public indoor recreation facilities. Excluded from this category are residential subdivisions, boating uses and industry.

Uses and activities associated with commercial development that are identified as separate use activities in this Program are subject to those regulations in addition to the standards for commercial development established herein.

### 6.7.2 Regulations

1. The City shall require and utilize the following information in its review of commercial development proposals:
  - a. Nature of the commercial activity (e.g., water-dependent, water-related, enjoyment, nonwater-oriented, mixed-use) including a breakdown of specific components;
  - b. Need for shoreline location;
  - c. Special considerations for enhancing the relationship of the activity to the shoreline;
  - d. Provisions for public visual and physical access to the shoreline;
  - e. Provisions to ensure that the development will not cause adverse negative environmental impacts; and
  - f. For mixed-use proposals, describe the type and amount of water-oriented and nonwater-oriented uses; present site and building designs, including bulk considerations, proposed public access improvements, restoration or enhancement of environmental features, and other considerations that address the goals and policies of the SMP.
2. A use or development shall not be considered water-dependent, water-related or water-enjoyment until the City determines that the proposed design, layout and operation of the use/development meet the definition and intent of water-dependent, water-related or water-enjoyment.
3. New nonwater-oriented commercial uses or development are prohibited unless they meet one of the following:
  - a. The use is part of a mixed-use project or facility that supports water-dependent uses and provides a significant public benefit with respect to the public access and restoration goals of this Program; or



- b. Navigability is severely limited at the proposed site and the use provides a significant public benefit with respect to the public access and restoration goals of this Program; or
  - c. The use is within the shoreline jurisdiction but physically separated from the shoreline by a separate property, public right-of-way, or existing use, and provides a significant public benefit with respect to the public access and restoration goals of this Program. For the purposes of this Program, public access trails and facilities do not constitute a separation.
- 4. Nonwater-oriented commercial developments shall not usurp or displace land currently occupied by a water-oriented use or interfere with adjacent water-oriented uses.
  - 5. Commercial development shall be prohibited in marshes, bogs, and swamps.
  - 6. Water-dependent, water-related, and water-enjoyment commercial development is allowed overwater in the Aquatic Harbor designation provided water-related or water-enjoyment commercial developments are located in existing overwater structures or where they are auxiliary to and necessary in support of water-dependent uses.
  - 7. Commercial development shall be designed and maintained in a neat, orderly and environmentally compatible manner, consistent with the character and features of the surrounding area. To this end, the City may adjust the project dimensions and setbacks, and/or prescribe operation intensity and screening standards as deemed appropriate. Need and special considerations for landscaping and buffer areas shall also be subject to review.
  - 8. Water-enjoyment and water-related commercial uses shall provide public access and ecological restoration where feasible and avoid impacts to existing navigation, recreation, and public access. Private water-dependent uses may be required to provide public access in accordance with section 5.12 Regulation #1(e) of this Master Program.

## 6.8 Forest Practices

### 6.8.1 Applicability

Forest practices are uses and activities relating to the growing, harvesting and limited processing of timber. This includes, but is not limited to, (1) site preparation and regeneration; (2) protection from insects, fire and disease; (3) silvicultural



practices such as thinning, fertilization and release from competing vegetation; and (4) harvesting. Forest practices do not include log storage. (See Section 6.9 on industrial uses.)

Timber harvesting and forest practices that do not meet the definition of development are regulated by the Washington State Forest Practices Act and the 1999 Forest and Fish Report. Such practices are not regulated by this Program except for selective commercial timber cutting on shorelines of statewide significance. Other activities associated with timber harvesting, such as filling, excavation, and building roads and structures that meet the definition of development, are regulated according to applicable sections of this Program and require shoreline substantial development permits or conditional use permits. Conversion of forest land to nonforestry uses (Class IV Conversion Forest Practices Permit) are also subject to this Program.

## 6.8.2 Regulations

1. Timber harvesting and forest practices activities regulated by the Washington State Forest Practices Act (RCW 76.09) and WAC 222 that do not meet the definition of development shall be conducted in accordance with the Forest Practices Act and the 1999 Forest and Fish Report, and any regulations adopted pursuant thereto. Such practices shall not be regulated by this Program and shall not require a shoreline permit, except for the following activities:
  - a. Selective commercial timber cutting on shorelines of statewide significance shall not exceed thirty percent (30%) of the merchantable trees in any ten (10) year period, as required by RCW 90.58.150. The City may allow exceptions to the thirty percent (30%) limit with a conditional use permit in accordance with WAC 173-26-241(3)(e).
  - b. Forest practices and/or roads to provide access on slopes that exceed thirty-five percent (35%) shall require a conditional use permit.
2. Tree cutting and timber harvest not regulated by the Forest Practices Act (RCW 76.09) and WAC 222 shall be regulated according to the general provisions (Chapter 5) and other applicable use-specific provisions (Chapter 6) of this Program and shall require a shoreline substantial development permit or conditional use permit, as specified in this Program.
3. Other activities associated with timber harvesting, such as filling, excavation, and building roads and structures, that meet the definition of development shall be regulated according to the general provisions (Chapter 5) and the other applicable use-specific provisions (Chapter 6) of this Program and shall require a shoreline substantial development permit or conditional use permit, as specified in this Program.

4. Conversion of forest land to nonforestry uses (Class IV Conversion Forest Practices Permit) shall be reviewed in accordance with the provisions for the proposed nonforestry use and the general provisions in Chapter 5 and shall be subject to any permit requirements associated with the nonforestry use.
5. Those lands harvested and not reforested under a Class I, II, or III permit and which do not meet the standards of this chapter and are later converted to nonforest uses shall have all local permits withheld for a period of six (6) years, as authorized by the Forest Practices Act. This moratorium shall run with the land and be duly noted in the public record. The conversion of land to nonforest uses shall mean the division of land or the preparation of land for land division or construction. Should a landowner wish to remove the moratorium or convert the land to nonforest uses, the owner shall:
  - a. Reforest the land as prescribed by the Department of Natural Resources and/or provide stabilization and protection of the area in a manner approved by the City of Shelton in accordance with this Program. Said reforestation shall be by planting and not by natural regeneration, unless the Department verifies that natural regeneration has already occurred to such an extent that planting is not necessary. Stabilization and protection of affected critical areas through drainage and erosion control measures shall be provided; and
  - b. Submit and have approved by the Shoreline Administrator a conversion harvest plan. The approval of said plan may include conditions and improvement requirements to control erosion, protect or enhance the critical area or buffer, or other conditions that are intended to reduce impacts to the critical area.
6. In addition to requirements of this section, SMC 21.64.071(K) shall apply.

## **6.9 Industrial Uses**

### **6.9.1 Applicability**

Industry located along the waterfront includes port development, water-oriented and nonwater-oriented manufacturing, warehousing, processing, storage and similar activities. Ports are a specialized subcategory of general industrial uses.

Industrial developments include facilities for processing, manufacturing and storage of finished or semi-finished goods. Ports are public enterprises providing services and facilities for commerce, transportation and economic development. Included in ports and industry are such activities as container ship terminals, log storage, log



rafting, forest product manufacturing, petroleum storage, transport and storage, ship building, tug and barge operations, etc. Excluded from this category and covered under other sections of this Master Program are boating uses, mining (including on-site processing of raw materials), utilities, and transportation.

Shelton's waterfront provides unique opportunities for water-dependent and water-related industrial uses and development.

## 6.9.2 Regulations - General

1. Accessory development that does not require a shoreline location shall be located upland of the water-dependent portions of the development and setback from the OHWM per Table 6-3. This category includes but is not limited to parking, warehousing, open air storage, waste storage, utilities and land transportation development.
2. Plans made to mitigate significant adverse environmental impacts pursuant to the General Regulations found in Chapter 5 of this program shall be submitted by the applicant.
3. New water-dependent industry shall be located and designed to minimize the need for initial and/or continual dredging, filling, dredge material disposal and other harbor and channel maintenance activities. New nonwater-oriented industrial uses or development may be considered as a conditional use as outlined in Table 6-1 and must meet one of the following:
  - a. The use is part of a mixed-use project that supports water-oriented uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives; or
  - b. Navigability is severely limited at the proposed site and the use provides a significant public benefit with respect to the Shoreline Management Act's objectives; or
  - c. The use is within the shoreline jurisdiction but physically separated from the shoreline by another property or public right-of-way.
4. At new or expanded port and/or industrial developments, the best available facilities, practices and procedures shall be employed for the safe handling of fuels and toxic or hazardous materials to prevent them from entering the water, and optimum means shall be employed for prompt and effective cleanup of those spills that do occur.

### 6.9.3 Regulations - Design

1. The determinations of which lands are best suited for water-dependent/water-related industry shall be made on the basis of the following location criteria:
  - a. Channel access;
  - b. Rail access;
  - c. Major road access;
  - d. Size of land area;
  - e. Physical characteristics of site (e.g., grade, soil type, hydrology, etc.);
  - f. Size of ownership units;
  - g. Present use and projected growth patterns;
  - h. Environmental factors; and
  - i. Feasibility/market demand analysis of potential water-oriented uses.
2. Display and other exterior lighting shall be designed, shielded, and operated to minimize glare, avoid illuminating nearby properties and prevent hazards for public traffic.

### 6.9.4 Regulations - Log Booming, Rafting, and Storage

1. Log storage facilities and uses shall comply with all applicable local, state, and federal regulations, including stormwater management regulations, Hydraulic Project Approvals granted by the Washington State Department of Fish and Wildlife, and the Water Quality Certification requirements provided by the Washington State Department of Ecology.
2. New log storage facilities shall demonstrate use of best management practices to avoid significant adverse impact to critical saltwater habitats and fish and wildlife habitat conservation areas.
3. Log storage and log booming facilities shall be adequately maintained and repaired to prevent log escapement from the storage site.
4. New log rafting, log transfer to water or storage operations or existing log rafting, log transfer or storage operations pursuing a shoreline permit for substantial repair or reconstruction, are required to implement the following when feasible:



- a. Logs shall not be transferred to water, stored, or rafted where grounding on intertidal lands will occur during any portion of the tidal cycle. Tidelands which were leased for booming and rafting prior to January 1, 1980, are exempt from this provision.
- b. Easy let-down devices shall be provided for log transfer to water, to prevent the freefall dumping of logs into water.
- c. Bark and wood debris controls and disposal shall be implemented at log transfer to water operations, and log raft building areas. Accumulations of bark and wood debris on the land and docks around log transfer to water operations and upland storage sites shall be kept out of the water. After cleanup, any disposal shall be at an upland site where leachate will not enter surface or groundwaters.
- d. Where water depths will permit the floating of bundled logs, they shall be secured in bundles on land before being placed in the water. Bundles shall not be broken again except on land or at mill sites.

## 6.10 Institutional Uses

### 6.10.1 Applicability

Institutional uses include facilities for the provision of educational, medical, cultural, social, public safety, and/or recreational services to the community, including but not limited to schools, colleges, libraries, museums, community centers, government offices, and the relevant essential public facilities identified in WAC 365-196-550.

### 6.10.2 Regulations

1. Water-oriented institutional uses and developments are preferred.
2. Where allowed, nonwater-oriented institutional uses may be permitted provided that a significant public benefit such as public access and/or ecological restoration is provided.
3. Loading, service areas, and other accessory uses shall be located landward of a primary structure or underground whenever possible, but shall in no case be waterward of the structure.
4. Where institutional uses are allowed as a conditional use, the following must be demonstrated:
  - a. A water-dependent use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features, or due to the site's separation from the water;

- b. The proposed use does not displace a current water-oriented use and will not interfere with adjacent water-oriented uses; and
- c. The proposed use will be of substantial public benefit by increasing the public use, enjoyment, or access to the shoreline.

## 6.11 Mining

### 6.11.1 Applicability

Mining is the removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses. Mining activities include in-water dredging activities related to mineral extraction. Mining does not include general manufacturing, such as the manufacture of molded or cast concrete or asphalt products, asphalt mixing operations, or concrete batching operations. (See Section 6.9 Industrial Uses for standards relating to these uses.)

### 6.11.2 Regulations

1. The excavation of sand, gravel, and other minerals is prohibited within the City's shoreline jurisdiction.
2. Impacts to shorelands and water bodies due to mining operations upland of shoreline jurisdiction shall be minimized to protect shoreline ecological functions.
3. Transport and storage of mined materials shall be considered an industrial use and be subject to "Industrial Use" regulations.

## 6.12 Parking

### 6.12.1 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 is prohibited within shoreline jurisdiction.

### 6.12.2 Regulations

1. Parking as a primary use shall be prohibited.

2. Parking shall be prohibited over water, except for pre-existing parking areas serving water-dependent uses. Existing overwater parking areas shall not be expanded.
3. Parking in shoreline jurisdiction shall directly serve an authorized shoreline use.
4. Surface parking facilities shall be designed and landscaped to minimize visual impacts to adjacent shorelines and properties. At a minimum, the landscaping standards pursuant to SMC 20.60.150 (Parking lot landscaping and screening) shall be followed. .
5. 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 screened, or in cases when an alternate orientation would have less adverse impact on shoreline ecological functions and processes.
6. Parking areas shall use best available technologies to control quantity and quality of surface water runoff such as low impact development.

## **6.13 Recreational Development**

### **6.13.1 Applicability**

Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public. Recreational development provides opportunities for the refreshment of body and mind through forms of play, sports, relaxation, amusement, or contemplation. It includes facilities for passive recreational activities, such as hiking, photography, viewing, and fishing. It also includes facilities for active or more intensive uses such as parks, campgrounds, and golf courses. This section applies to both publicly- and privately-owned shoreline facilities intended for use by the public or a private club, group, association, or individual. (Also see Chapter 5, Section 5.12 for regulations affecting public access.) Commercial recreation shall also be consistent with the provisions for commercial development in Section 6.7 of this Master Program.

### **6.13.2 Regulations -- General**

1. Local governments shall consult state and local health regulations which apply to recreational facilities when issuing shoreline permits (WAC 173-16-060-21(k)).



2. Valuable shoreline resources and fragile or unique areas, such as marshes, bogs, swamps, estuaries, wetlands and accretion beaches, shall be used only for passive use recreational activities.
3. All permanent substantial recreational structures and facilities shall be located outside officially mapped floodways, provided the City may grant administrative exceptions for nonintensive minor accessory uses (e.g., picnic tables, tennis courts, etc.).
4. New recreational uses, trails and developments should be located landward of the buffer required by Chapter 21.64 of the Shelton Municipal Code excepting that components of the recreational use or development that are water-dependent, water-related, or whose primary use is to provide shoreline access may be allowed within the shoreline buffer, provided that the amount of buffer encroachment and disturbance are the minimum needed to accommodate the water-dependent or water-related component. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in conspicuous locations at the point of access and the entrance thereto.

### 6.13.3 Regulations -- Design

1. Recreational development shall achieve no net loss of ecological processes and functions and should be designed to be compatible with surrounding properties.
2. Recreational development shall be designed and constructed so as to not unnecessarily interfere with public use of shorelines.
3. Recreational uses and improvements shall encourage and include public access to shorelines.
4. In approving shoreline recreational developments, the City shall ensure that the developments maintain, enhance or restore desirable shoreline features including unique and fragile areas, scenic views and aesthetic values. To this end, the City may adjust and/or prescribe project dimensions, location of on-site project components, intensity of use, screening, parking requirements and setbacks, as deemed appropriate.
5. Recreational developments shall provide facilities for nonmotorized access to the shoreline such as bicycle and/or pedestrian paths.
6. Motorized vehicular access is prohibited on beaches, bars, spits, and streambeds, EXCEPT for boat launching and maintenance activities. Recreational facility design and operation shall prohibit the use of all-terrain and off-road vehicles in the shoreline area.



7. Proposals for developments shall include a landscape plan that utilizes native, self-sustaining vegetation. The removal of on-site native vegetation shall be limited to the minimum necessary for the development of campsites, selected views or other permitted structures or facilities. (See Section 5.6.2 on Clearing, Grading, Fill and Excavation and Section 5.7 Vegetation Conservation.)
8. No recreational buildings or structures shall be built over water, EXCEPT for water-dependent and/or public access structures such as piers, docks, bridges, or viewing platforms.
9. Proposals for recreational development shall include adequate facilities for water supply, sewage and garbage disposal. Where sewage treatment facilities are not available, the appropriate reviewing authority shall limit the intensity of development to meet City, county and state on-site sewage disposal requirements.
10. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences and signs, to prevent overflow and to protect the value and enjoyment of adjacent or nearby private properties.
11. In addition to requirements of this section, SMC 21.64.330(C) shall apply.

## 6.14 Residential Development

### 6.14.1 Applicability

Residential development applies to the development of single-family and multi-family residences and their normal appurtenances, and the creation of new residential lots through land division. Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities. Those developments are regulated under Section 6.7 Commercial Uses.

### 6.14.2 Regulations

1. House boats, floating homes, and other overwater residential structures are prohibited.
2. New residential lots created through land division may be allowed provided:
  - a. New lots shall be consistent with lot configuration requirements that are established by SMC Title 20, Zoning, as applicable;
  - b. Structural shore armoring or flood control structures will not be required to protect or create the land;

- c. The new lots will not require structural shoreline stabilization or flood control measures during the useful life of the development or one hundred (100) years, whichever is greater;
  - d. No improvements are proposed within the required shoreline buffer or critical area buffer, except as provided in SMC Chapter 21.64 Critical Area Protection;
  - e. Site work does not create significant erosion or landslide hazard or reduce slope stability;
  - f. There is sufficient buildable area above the one hundred (100) year flood zone level within each resultant parcel.
3. Residential development shall be located and designed to avoid the need for structural shore defense and flood protection works in the foreseeable future.
4. Stormwater drainage and treatment facilities shall be required for all development pursuant to SMC Chapter 13.02 Stormwater Management.
5. Residential development plans submitted for approval shall contain provisions for protection of groundwater supplies, erosion control, landscaping and maintenance of the natural shoreline integrity and ecological functions.

## 6.15 Signs

### 6.15.1 Applicability

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.

The provisions of this section do not apply to publicly owned signs where the purpose is safety, direction, or information.

Additional regulations are provided in the City of Shelton Sign Ordinance (Chapter 20.38 SMC). Where the regulations herein conflict with the City sign ordinance, the more stringent regulations shall apply.

### 6.15.2 Regulations

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

2. Signs in the shoreline shall be designed and placed in a manner that does not interfere with the public's ability to access the shoreline and will not result in a net loss of shoreline ecological functions.
3. Overwater signs or signs on floats or pilings shall be related to water-dependent uses only.
4. Lighted signs shall be hooded, shaded, or aimed so that direct light will not result in glare when viewed from surrounding properties or water bodies.
5. No commercial or advertising signs shall be placed in a public access corridor.
6. The following types of signs are prohibited:
  - a. Signs which impair visual access in view corridors.
  - b. Off-premise detached outdoor advertising signs.
  - c. Spinners, streamers, pennants, flashing lights, and other animated signs used for commercial purposes.
  - d. Signs placed on trees, rocks, or other natural features.
7. Signs to protect public safety or prevent trespass may be allowed and should be limited in size and number to the maximum extent practical.

## 6.16 Transportation Uses

### 6.16.1 Applicability

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, bikeways, trails, and railroad facilities.

### 6.16.2 Regulations - General

1. Transportation facilities and services shall utilize existing transportation corridors whenever feasible, provided that facility additions and modifications will not adversely impact shoreline resources and are otherwise consistent with this Program. If expansion of the existing corridor will result in significant adverse impacts to shoreline ecological functions, then a less disruptive alternative shall be utilized.
2. Transportation and primary utilities shall be encouraged to make joint use of rights-of-way and to consolidate crossings of water bodies where impacts to the shoreline can be minimized by doing so.



3. In addition to requirements of this section, SMC 21.64.330(B) shall apply.

### 6.16.3 Regulations - Location and Design

1. Proposed transportation facilities are required to be planned, located, and designed in such a manner that routes will have the least possible adverse effect on unique or fragile shoreline features and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses and public access.
2. Major new highways, freeways and railways shall be located outside shoreline jurisdiction, EXCEPT where water crossing is required or no other feasible alternative exists. These roads shall cross shoreline areas and water bodies by the shortest, most direct route feasible unless such route would cause more damage to shoreline ecological functions and processes.
3. New transportation facilities shall be located and designed to minimize or prevent the need for shoreline protective measures such as riprap or other bank stabilization, landfill, bulkheads, groins, jetties or substantial site grading. Transportation facilities allowed to cross over water bodies, marshes, bogs and swamps shall utilize elevated, open pile or pier structures whenever feasible. All bridges must be built high enough to allow the passage of debris.
4. Vehicle and pedestrian circulation systems shall be designed to minimize clearing, grading and alteration of topography and natural features. Roadway and driveway alignment shall follow the natural contours of the site and minimize width to the maximum extent feasible.
5. All roads shall be adequately set back from water bodies and shall provide buffer areas of compatible, self-sustaining native vegetation. Shoreline scenic drives and viewpoints may provide breaks in the vegetative buffer to allow open views of the water.
6. All transportation facilities shall be designed, constructed and maintained to contain and control all debris, overburden, runoff, erosion and sediment generated from the affected areas.
7. Bridge abutments and necessary approach fills shall be located landward of wetlands or the OHWM for water bodies without wetlands, PROVIDED bridge piers may be permitted in a water body as a conditional use.
8. Transportation facilities are prohibited in:
  - a. Hazardous areas such as steep slopes or in areas with soils subject to severe erosion or landslide hazard;



- b. Front of feeder bluffs, over driftways, or on accretion shoreforms; or
  - c. Channel migration zones.
9. Roads, railroads and other transportation facilities are prohibited over water, EXCEPT to serve water-dependent or public uses consistent with this program when inland alternatives are unfeasible or for water crossings.
10. Open pile bridges shall be the preferred water crossing structures in and adjacent to streams supporting salmon and steelhead.

## **6.16.4 Regulations - Construction and Maintenance**

1. Overburden, debris and other waste materials from both construction and maintenance activities, including drainage ditch clearance, shall not be deposited into or sidecast on the shoreline side of roads or in water bodies, wetlands, estuaries, tidelands, accretion beaches and other unique natural areas. Such materials shall be deposited in stable locations where reentry and erosion into such areas is prevented.
2. All shoreline areas disturbed by facility construction and maintenance shall be replanted and stabilized with compatible, self-sustaining vegetation by seeding, mulching or other effective means immediately upon completion of the construction or maintenance activity. Such vegetation shall be maintained by the agency or developer constructing or maintaining the road until established.

## **6.17 Utilities Uses**

### **6.17.1 Applicability**

Utilities are services and facilities that produce, convey, store, or process power, oil, gas, natural gas, sewage, communications, water and the like. On-site utility features serving a primary use, such as a water, sewer or gas line to a residence, are "accessory utilities" and shall be considered a part of the primary use.

### **6.17.2 Regulations - General**

1. Applications for installation of utilities shall include the following:
  - a. Description of the proposed facilities;
  - b. Reason(s) why the utility requires a shoreline location;
  - c. Alternative locations considered and reasons for their elimination;

- d. Location of other utilities in the vicinity of the proposed project and any plans to include the facilities of other types of utilities in the project;
  - e. Plans for reclamation of areas disturbed both during construction and following decommissioning and/or completion of the primary utilities' useful life;
  - f. Plans for control of erosion and turbidity during construction and operation; and
  - g. Identification of any possibility for locating the proposed facility at another existing utility facility site or within an existing utility right-of-way.
2. Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way where possible. Such uses include shoreline access points, trails and other forms of recreation and transportation systems, provided such uses will not unduly interfere with utility operations or endanger public health and safety.
3. Nonwater-oriented utility facilities shall be located outside the shoreline jurisdiction unless it can be demonstrated that no feasible alternative option is available. This includes the following facilities, which shall only be authorized by conditional use permit:
  - a. Water system treatment plants;
  - b. Water reclamation plants;
  - c. Desalinization plants;
  - d. Wastewater treatment systems (lines, pump stations, treatment plants);
  - e. Electrical energy generating plants (except for in-stream structures), substations, lines and cables; and
  - f. Petroleum, gas and natural gas pipelines and facilities.
4. Sewage treatment, water reclamation, and desalinization plants shall be located where they do not interfere with and are compatible with recreational, residential or other public uses of the water and shorelands.
5. New solid waste disposal sites and facilities are prohibited. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are prohibited, except in situations where no other feasible alternative exists. In those limited instances when permitted, automatic shut-off valves shall be provided by the project proponent on both sides of the water body, and pipe sleeves shall be used to facilitate repair without future encroachment on surface waters and

wetlands, unless more feasible or technically superior alternatives exist that provide equivalent protection, as deemed by the Shoreline Administrator.

6. In addition to requirements of this section, SMC 21.64.330(D) and (E) shall apply.

### 6.17.3 Regulations - Location and Design

1. New utility lines, including electricity, communications and fuel lines, shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible or placing underground would result in greater adverse environmental impacts or public safety hazards. Furthermore, such lines shall utilize existing rights-of-way and corridors whenever possible. Existing aboveground lines shall be moved underground during normal replacement processes.
2. Underground utility lines shall be completely buried under the river bed in all river or stream crossings EXCEPT where such lines may be affixed to a bridge structure and EXCEPT for appropriate water or wastewater treatment plant intake pipes or outfalls.
3. 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.
4. Utilities that are not water-dependent shall be located outside shoreline buffers unless it is demonstrated that alternative locations and alternative technology are infeasible, or as allowed pursuant to SMC 21.64.330(D) and (E).
5. Permitted overwater utility crossings shall utilize pier or open pile techniques.
6. Utility development shall provide screening of facilities from water bodies and adjacent properties. Screening requirements shall be determined by the City on a case-by-case basis.

### 6.17.4 Regulations - Water Systems

1. Water system treatment plants should be located outside the shoreline jurisdiction unless it can be demonstrated that no feasible option is available.
2. Underground (or water) utility lines shall be completely buried under the riverbed in all river or stream crossings EXCEPT where such lines may be affixed to a bridge structure and EXCEPT for appropriate water or wastewater treatment plant intake pipes or outfalls.



3. Water intakes shall not be permitted near fish spawning, migratory, or rearing areas.

### 6.17.5 Regulations - Sewage System

1. Wastewater treatment systems should be located outside the shoreline jurisdiction unless it can be demonstrated that no feasible option is available.
2. Septic fields shall be located landward of all setbacks set by local, county, and state regulations.
3. All new shoreline development within Shelton City limits shall comply with on-site sewage disposal requirements pursuant to SMC Title 14 Sewers. Development within the Urban Growth Area shall comply with appropriate Health Department provisions for treatment of waste.

### 6.17.6 Regulations - Oil, Gas, and Natural Gas Transmission

1. Petroleum and gas pipelines should be located outside the shoreline jurisdiction unless it can be demonstrated that no feasible option is available.
2. Pipelines for oil, gas, water and other utilities shall:
  - a. Use the best available technology to protect health, safety, and the environment;
  - b. Be routed through sites that are already lacking vegetation, such as existing roadways, or attached to existing bridges, to the greatest extent feasible;
  - c. Avoid critical aquatic habitat to the greatest extent feasible.
3. If crossing beneath a streambed, utilities shall be designed to avoid streambed mobilization and adverse impacts on groundwater flow; be placed in a sleeve or conduit that allows replacement without need for additional excavation; and return grades to existing or better condition that provides for normal floodwater flow.

### 6.17.7 Regulations - Electrical Energy and Communication System

1. Electrical energy substations, lines and cables shall be located outside the shoreline jurisdiction unless it can be demonstrated that no feasible option is available.



2. Cable crossings for telecommunications and power lines shall:
  - a. Use the best available technology to protect health, safety, and the environment;
  - b. Be routed through sites that are already free of vegetation, such as existing roadways, or attached to existing bridges, to the greatest extent feasible;
  - c. Avoid critical aquatic habitat to the greatest extent feasible; and
  - d. If crossing beneath a streambed, utilities shall be designed to avoid streambed mobilization and adverse impacts on groundwater flow; be placed in a sleeve or conduit that allows replacement without need for additional excavation; and return grades to existing or better condition that provides for normal floodwater flow.

### **6.17.8 Regulations - Power Generation Facility**

1. Electrical energy generating plants shall be located outside the shoreline jurisdiction unless it can be demonstrated that no feasible option is available.
2. Power generating facilities shall comply with all policies and regulations contained in this Master Program (see Section 6.19 Floodplain Management, Flood Control Works, and In-stream Structures) and shall require approval of a shoreline conditional use permit in all environment designations.

## **6.18 Dredging and Dredge Material Disposal**

### **6.18.1 Applicability**

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, river, lake or marine water body and associated wetlands. Dredging is normally done for specific purposes or uses such as construction or maintenance of canals, navigation channels, turning basins, harbors and marinas, and for installing pipelines or cables, for dike or drainage system repair and maintenance.

Dredge material disposal is the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands for other uses or disposing of the byproducts of dredging.

## 6.18.2 Regulations - General

1. Dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts. Impacts which cannot be avoided should be mitigated in a manner that assures no net loss of ecological function.
2. New development shall be sited and designed to avoid, or if that is not possible, to minimize the need for new maintenance dredging.
3. Applications for shoreline dredging and dredge material disposal may be required to provide the following types of information:
  - a. Physical, chemical and biological assessment of the proposed dredged material applicable to the particular dredging site. Information needed will vary depending upon:
    - i. existing biological communities or resources in the area;
    - ii. the possibility of significant sediment contamination; and
    - iii. the suitability of the proposed dredge disposal site. Specific data to be considered include:
      1. Physical - Grain size, clay, silt, sand or gravel as determined by sieve analysis.
      2. Chemical - Including conventional parameters, metals, and organics.
      3. Biological - Bioassays useful in determining the suitability of dredged material for a selected disposal option.
  - b. Dredging volumes, methods, schedule, frequency, hours of operation and procedures;
  - c. Method of disposal, including the location, size, capacity and physical characteristics of the disposal site, transportation method and routes, hours of operation, schedule;
  - d. Location and stability of bedlands adjacent to proposed dredging area;
  - e. Hydraulic analyses, including tidal fluctuation, current flows, direction and projected impacts. Hydraulic modeling studies are required for large scale, extensive dredging projects, particularly in estuaries, in order to identify existing geohydraulic-hydraulic patterns and probable effects of dredging;
  - f. Assessment of water quality impacts; and

- g. Biological assessment including migratory, seasonal, and spawning use areas.
- 4. In evaluating permit applications for any dredging project, the adverse effects of the initial dredging, subsequent maintenance dredging and dredge disposal that will be necessary shall be considered. Dredging and dredge disposal shall be permitted only where it is demonstrated that the proposed actions will not:
  - a. Result in significant and/or ongoing damage to water quality, fish, shellfish and other essential marine biological elements; and
  - b. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities.
- 5. Proposals for dredging and dredge disposal shall include all feasible mitigating measures to protect marine habitats and to minimize adverse impacts such as turbidity, release of nutrients, heavy metals, sulfides, organic material or toxic substances, dissolved oxygen depletion, disruption of food chains, loss of benthic productivity and disturbance of fish runs and important localized biological communities.
- 6. Dredging and dredge disposal shall not occur in marshes, bogs or swamps, except as authorized by conditional use permit provided the wetland does not serve any of the valuable functions of wetlands identified in this Master Program or during the permit review process including, but not limited to, wildlife habitat and natural drainage functions, and/or enhances the wildlife habitat, natural drainage and/or other valuable functions.
- 7. Dredging and dredge disposal shall be carefully scheduled to protect biological productivity (e.g., fish runs, spawning, benthic productivity, etc.) and to minimize interference with fishing activities. Dredging activities shall not occur in areas used for commercial fishing (e.g., drift net, crabbing, etc.) during a fishing season unless specifically addressed and mitigated for in the permit.
- 8. Dredging and dredge disposal shall be **prohibited** on or in archaeological sites which are listed in, or are eligible to be listed in, the National Register of Historic Places until such time that they have been released by the State Archaeologist.

### 6.18.3 Regulations - Dredging

- 1. Dredging waterward of the ordinary high water mark shall be permitted only:



- a. For navigation or navigational access only when necessary for assuring safe and efficient accommodation of existing navigational uses and only when significant ecological impacts are minimized and mitigated; or
  - b. In conjunction with water-dependent use of water bodies or adjacent shorelands; or
  - c. Ecological restoration and enhancement projects benefitting water quality and/or fish and wildlife habitat; or
  - d. Environmental cleanup activities required under Model Toxics Control Act or Comprehensive Environmental Response, Compensation, and Liability Act; or
  - e. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist; or
  - f. Maintenance dredging for the purpose of restoring previously permitted or authorized hydraulic capacity of a stream or river. Maintenance dredging of established navigation channels and basins is restricted to maintaining previously dredged and/or authorized locations, depths, and widths.
2. The City may permit dredging for flood management purposes only when the project proponent demonstrates that:
  - a. The dredging is a required component of a county and/or City-approved comprehensive flood management plan, or
  - b. The dredging has a long-term benefit to public health and safety and will not cause a net loss of ecological functions and processes.
3. New nonwater-dependent development that would result in the need for new dredging shall be prohibited.
4. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use.
5. Dredging shall utilize techniques that cause minimum dispersal and broadcast of bottom material.
6. New dredging activity is prohibited in the following locations:
  - a. In estuaries except by conditional use permit;
  - b. Along net positive drift sectors and where geohydraulic-hydraulic processes are active and accretion shore forms would be damaged, altered or irretrievably lost;



- c. In shoreline areas with bottom materials that are prone to significant sloughing and refilling due to currents or tidal activity, which result in the need for continual maintenance dredging; or
  - d. In habitats identified as critical to the life cycle of officially designated or protected fish, shellfish or wildlife.
- 7. Dredging waterward of the ordinary high water mark for the primary purpose of obtaining material for landfill shall not be allowed except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high water mark. The project must either be associated with a MTCA or CERCLA habitat restoration project or, if approved through a shoreline conditional use permit, any other habitat enhancement project.

#### 6.18.4 Regulations - Dredge Material Disposal

- 1. Disposal of dredged material may be accomplished at approved contained upland disposal sites.
- 2. Dredge disposal within river channel migration zones shall only be authorized when part of an approved shoreline restoration project, and requires a Conditional Use Permit.
- 3. Individual disposal operations shall comply with the Washington Department of Natural Resources leasing practices, Washington Department of Ecology Water Quality Certification process, Washington Department of Fish and Wildlife Hydraulic Project Approval, Mason County regulations for solid waste disposal, and the U.S. Army Corps of Engineers permit requirements.
- 4. Depositing dredge materials in water areas other than Puget Sound Dredged Disposal Analysis sites shall be allowed only by conditional use permit for one or more of the following reasons:
  - a. For wildlife habitat improvement;
  - b. To correct problems of material distribution adversely affecting fish and shellfish resources;
  - c. For permitted beach enhancement;
  - d. When the alternative of depositing material on land is demonstrated to be more detrimental to shoreline resources than depositing it in water areas; or
  - e. For the implementation of adopted regional interagency dredge material management plans or watershed management planning.

5. Disposal, if allowed in water, shall utilize techniques that cause the least dispersal and broadcast of materials unless specifically designed and approved as a dispersal site.
6. Use of dredge materials for beach enhancement shall be conducted so that:
  - a. Erosion or deposition downstream from the disposal site does not occur. Erosion of the dredged material shall not smother marsh or other shallow or nearshore productive areas.
  - b. To the extent possible, the volume and frequency of dredged material disposal maintains a stable beach profile. Dredged material shall be graded at a uniform slope and contoured to reduce cove and peninsula formation and to minimize stranding of juvenile fish.
7. When dredge material is deposited on land it shall be considered fill and subject to all applicable fill regulations.

## **6.19 Floodplain Management, Flood Control Works and In-stream Structures**

### **6.19.1 Applicability**

Floodplain management involves actions taken with the primary purpose of preventing or mitigating damage due to flooding. It can involve site design, land use controls and zoning to control development, either to reduce risks to human life and property or to prevent development from contributing to the severity of flooding. Floodplain management can also address the design of developments to reduce flood damage and the construction of flood controls, such as dikes, dams, engineered floodways, and bioengineering.

Flood control works are structural floodplain management measures that include modifications such as dikes, levees, revetments and floodwalls.

In-stream structures function for the impoundment, diversion, or use of water for hydroelectric generation and transmission (including both public and private facilities), flood control, irrigation, water supply (both domestic and industrial), recreation or fisheries enhancement. In-stream structures and their support facilities are covered in this section. The following regulations apply to the construction, operation and maintenance of in-stream structures, as well as the expansion of existing structures and support facilities.

## 6.19.2 Regulations - Floodplain Management and Flood Control Works

1. To determine that the provisions of this section are fully addressed, the City may require one or more technical studies/reports prepared by a licensed professional engineer and/or qualified biologist, as applicable, at the time of permit application for flood hazard management projects and programs unless the City determines that issues are adequately addressed via another regulatory review process. Technical reports required pursuant to this section may include any of the following.
  - a. River channel hydraulics and river channel characteristics up and downstream from the project area;
  - b. Existing shoreline stabilization and flood protection works within the area;
  - c. Description of the physical, geological and soil characteristics of the area;
  - d. Description of biological resources and predicted effects of the project on fish, vegetation and animal habitat associated with shoreline ecological functions and processes;
  - e. Predicted impact upon area shore and hydraulic processes, adjacent properties and shoreline and water uses;
  - f. Analysis of alternative flood protection measures including both structural and nonstructural;
2. Conditions of Hydraulic Project Approval, issued by the Washington State Department of Fish and Wildlife, may be incorporated into permits issued for flood protection.
3. The City shall require a professional engineer in the design of flood protection works where such projects may cause interference with normal river geohydraulic processes, leading to erosion of other upstream and downstream shoreline properties, or adverse effects to shoreline resources and uses. The design shall be consistent with the Department of Fish and Wildlife Aquatic Habitat Guidelines and other applicable guidance and regulatory requirements.
4. Flood control structures may be allowed when consistent with this Program and when there is credible engineering and scientific evidence that:
  - a. They are necessary to protect existing, lawfully established development; and



- b. They are consistent with SMC Chapter 18.10 Flood Damage Prevention; and
  - c. Nonstructural flood hazard reduction measures are infeasible; and
  - d. Proposed measures are consistent with an adopted comprehensive flood hazard management plan, if available.
5. When allowed, dikes, levees, floodwalls and similar structures must comply with the following:
- a. Diking is set back to the edge of the OHWM at a minimum except for weirs, current deflectors and similar structures whose primary purpose is to protect public bridges, roads, and other public infrastructure;
  - b. Timing and construction shall be coordinated with Washington Department of Fish and Wildlife;
  - c. Diking shall be designed and constructed to meet Soil Conservation Service technical manual standards and shall, at a minimum include (1) layered compaction, (2) removal of debris (tree stumps, tires, etc.), and (3) revegetation and maintenance until ground cover is established; and
  - d. Appropriate vegetation management actions are undertaken.
6. New dikes, levees and similar structures shall be placed landward of channel migration zones, designated floodways, designated habitat conservation areas, critical area buffers, associated wetlands, and established public access or recreational facilities, or other public benefit, except when the project's primary purpose is to improve ecological functions and done in a manner consistent with Section 6.19.2 Regulation #5, above.
7. Flood protection measures that alter, reroute or change the natural water course of the shoreline may be approved as a conditional use only if it is demonstrated that other flood protection and planning measures would be insufficient. Alternative measures to be analyzed shall include bioengineering techniques, restrictions to development, shoreline setbacks, and comprehensive land use planning.
8. Flood control structures shall be designed to allow for normal groundwater movement and surface runoff. Natural in-stream features such as snags, uprooted trees, or stumps should be left in place unless they are actually causing bank erosion or higher flood stages.
9. The removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of



ecological functions, and is part of a comprehensive flood management solution.

10. In addition to requirements of this section, SMC 21.64.330(G) shall apply.

### **6.19.3 Regulations – In-stream Structures**

1. In-stream structures shall provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, hydrogeological processes, and shoreline critical areas.
2. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.
3. In-stream structures shall be designed, located, and constructed in such a manner as to avoid extensive topographical alteration and preserve natural scenic vistas.
4. All in-water diversion structures shall be designed to permit the natural transport of bedload materials. All debris, overburden and other waste materials from construction shall be disposed of in such a manner that prevents their entry into a water body.
5. In-stream structures and their support facilities shall be located and designed to avoid and minimize the need for structural shoreline stabilization.
6. Natural in-stream and in-water features such as snags, uprooted trees, or stumps shall be left in place unless it can be demonstrated that they are not enhancing shoreline function or are a threat to public safety. In-stream structures may be required to provide public access consistent with Section 5.12. Public access provisions shall include, but not be limited to, any combination of trails, vistas, parking, and any necessary sanitation facilities.
7. In addition to requirements of this section, SMC 21.64.330(J) shall apply.

## **6.20 Shoreline Restoration and Enhancement**

## 6.20.1 Applicability

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

## 6.20.2 Regulations

1. Shoreline enhancement may be permitted if the project proponent demonstrates that no significant change to littoral drift or river current will result that will adversely affect adjacent properties or habitat.
2. Shoreline restoration and/or enhancement projects shall use best available technology and shall demonstrate that they are compatible with the functions of nearby restoration and enhancement sites.
3. Beach restoration and/or enhancement shall **not**:
  - a. Extend waterward more than the minimum amount necessary to achieve the desired result.
  - b. Create “additional dry land”.
  - c. Disturb significant amounts of valuable shallow water fish or wildlife habitat without appropriate mitigation.
4. Shoreline enhancement is prohibited in spawning, nesting or breeding habitat that would be adversely affected by the enhancement efforts.
5. Shoreline enhancement is prohibited where potential dispersal of enhancement materials from littoral drift will adversely affect adjacent spawning, nesting, or breeding habitat.
6. Beach enhancement is prohibited where it will significantly interfere with the normal public use of the navigable waters of the state without appropriate mitigation.
7. Restoration projects shall include a maintenance and monitoring plan, as well as a contingency plan in the event that said project does not achieve its intended objective.
8. Approval of restoration projects shall be based on a review of a plan containing an analysis of existing conditions, identification of the area to be restored, proposed corrective actions, including installation of native species, performance standards, monitoring schedule, planting plans, erosion and sedimentation control plans, and grading plans as necessary.

9. Shoreline restoration and/or enhancement projects may include shoreline modification actions such as modification of vegetation, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.

## 6.21 Shoreline Stabilization

### 6.21.1 Applicability

Shoreline stabilization includes 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.

Nonstructural methods include building setbacks, relocation of the structure to be protected, groundwater management, planning and regulatory measures to avoid the need for structural stabilization. "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include:

- Vegetation enhancement;
- Upland drainage control;
- Biotechnical measures;
- Beach enhancement;
- Anchor trees;
- Gravel placement;
- Rock revetments;
- Gabions;
- Concrete groins;
- Retaining walls and bluff walls;
- Bulkheads; and
- Seawalls.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

### 6.21.2 Regulations – General

1. Permitted shoreline stabilization shall demonstrate that it results in no net loss of ecological function.



2. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible.
3. Subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics.
4. 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.
5. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.
6. New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:
  - b. To protect existing primary structures:
    - i. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.
  - c. In support of new nonwater-dependent development, including single-family residences, when all of the conditions below apply:
    - i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
    - ii. Nonstructural measures, such as placing the development farther from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
    - iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes, such as tidal action, currents, and waves.
  - d. In support of water-dependent development when all of the conditions below apply:



- i. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
    - ii. Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
    - iii. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
    - iv. The erosion control structure will not result in a net loss of shoreline ecological functions.
  - e. To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to Chapter 70.105D RCW when all of the conditions below apply:
    - i. Nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient.
    - ii. The erosion control structure will not result in a net loss of shoreline ecological functions.
7. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves.
- a. The replacement structure should be designed, located, sized, and constructed 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 structure unless there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.
  - c. Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure.
  - d. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.
  - e. For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

8. Geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three (3) years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three (3) years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.
9. When any structural shoreline stabilization measures are demonstrated to be necessary per Section 6.21.2, the following requirements shall be met.
  - a. Limit the size of stabilization measures to the minimum necessary. Use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.
  - b. Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions in section 5.12. Where feasible, incorporate ecological restoration and public access improvements into the project.
  - c. Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt Master Program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.
10. In addition to requirements of this section, SMC 21.64.330(F) shall apply.

### 6.21.3 Regulations – Bioengineered Stabilization

1. The City shall require and utilize the following information, in addition to the standard permit information required by Chapter 2 Applicability, Shoreline Permits and Exemptions, in its review of all bioengineering stabilization projects:
  - a. Proposed construction timing;
  - b. Hydrologic analysis, including predicted flood flows;
  - c. Site vegetation, soil types, and slope stability analysis;
  - d. Proposed project materials including rock size, shape and quantity, plant types, and soil preparations;
  - e. Existing and proposed slope profiles, including location of ordinary high water mark;
  - f. Proposed designs for transition areas between the project site and adjacent properties; and
  - g. Documentation (including photos) of existing (pre-construction) shoreline characteristics.
2. The installation of bioengineering projects shall be scheduled to minimize impacts to water quality, fish and wildlife habitat, and aquatic and upland habitat and to optimize survival of new vegetation.
3. All bioengineered projects shall be designed by a Professional Engineer or Licensed Engineering Geologist in accordance with best available science and use a diverse variety of native plant materials including but not limited to trees, shrubs, forbs, and grasses, unless demonstrated infeasible for the particular site.
4. Cleared areas shall be replanted following construction. Vegetation shall be fully reestablished within three (3) years. Areas that fail to adequately reestablish vegetation shall be replanted with approved plants until the plantings are viable.
5. All bioengineering projects shall be monitored and maintained as necessary. Areas damaged by pests and/or the elements shall be promptly repaired.

### 6.21.4 Regulations - Revetments

1. The City shall require professional design of the proposed revetment if it is determined there are sufficient uncertainties, such as:
  - a. Inadequate data on local geophysical conditions;



- b. Inadequate data on stream flow, velocity, and/or flood capacity; and
  - c. Effects on adjacent properties.
2. Riprap shall be constructed using techniques and materials that will enhance natural shoreline values and functions, including fish and wildlife habitat, water quality, vegetation, and aesthetics. Materials that will not be allowed are sand-cement bags, paving or building blocks, and gabions.
  3. When permitted, the siting and design of revetments shall be performed using appropriate engineering principles, including guidelines of the U.S. Soil Conservation Service and the U.S. Army Corps of Engineers.

## 6.21.5 Bulkheads

### 6.21.5.1 *General Regulations*

1. Bulkhead design and development shall conform to all other applicable state agency policies and regulations including the Department of Fish and Wildlife criteria governing the design of bulkheads. Consideration shall be given to design techniques such as vegetation coverage to enhance fish migration and wildlife habitat.
2. Bioengineered stabilization techniques such as those using natural materials and processes such as protective berms, drift logs, brush, beach feeding or vegetative stabilization are preferred over hard stabilization techniques and shall be utilized to the maximum extent feasible.

### 6.21.5.2 *Location*

1. Bulkheads shall not be located on shores where valuable geohydraulic-hydraulic or biological processes are sensitive to interference and critical to shoreline conservation.
2. Bulkheads are to be permitted only where local physical conditions such as foundation bearing material, surface and sub-surface drainage are suitable for such alterations.

### 6.21.5.3 *Design*

1. Bulkheads shall be designed with the minimum dimensions necessary to adequately protect the development.
2. Bulkheads shall be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil/materials.



3. Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure bulkhead stability without relying on additional riprap.
4. Materials used in bulkhead construction shall meet the following standards:
  - a. Bulkheads shall utilize stable, nonerodible, homogeneous materials such as concrete, wood, rock, riprap or other suitable material that will accomplish the desired end with the maximum preservation of natural shoreline characteristics.
  - b. Bulkhead materials shall take into account habitat protection and aesthetics, including consideration of Washington Department of Fish and Wildlife criteria.

## **Attachment 5**

### **Chapter 7 of the City of Shelton Shoreline Master Program**

**(2020/21 Shoreline Master Program Periodic Update  
Draft, January 2021)**

## CHAPTER 7

### ADMINISTRATION

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#### 7.1 General Provisions

1. There is hereby established an administrative system that (1) assigns responsibilities in the implementation of this Master Program, (2) prescribes an orderly process by which to review shoreline development and shoreline permit applications, and (3) ensures that all persons affected by this Shoreline Master Program (SMP or Program) are treated in a fair and equitable manner.
2. All proposed uses and development occurring within shoreline jurisdiction must conform to the Shoreline Management Act (SMA or Act) and this Program. The policies and regulations of this Program apply to all shoreline uses and developments within the City's shoreline jurisdiction whether or not a shoreline permit or statement of exemption is required.
3. The City may attach conditions of approval to any permitted use via a permit or statement of exemption as necessary to assure consistency of a project with the Act and this Program.
4. Applicants requesting review for permits or statement of exemption under this Program have the burden to prove that the proposed development or activity is consistent with the criteria that must be met before a permit or statement of exemption is granted.
5. A development or use that does not comply with the bulk, dimensional, and/or performance standards of this Program shall require a shoreline variance even if the development or use does not require a substantial development permit.
6. A development or use that is listed as a conditional use pursuant to this Program, or is an unlisted use, must obtain a conditional use permit even if the development or use does not require a substantial development permit.
7. Issuance of a shoreline substantial development permit, shoreline variance or shoreline conditional use permit does not constitute approval pursuant to any other federal, state or City laws or regulations. The City will inform the applicant, to the extent it can, of additional permitting that may be required for a development proposal (building permits, Hydraulic Project Approval, Army Corps permitting, etc.) in addition to shoreline permitting.

#### 8. Special Procedures for WSDOT projects.

- a. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

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- 7.b. Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty-one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological functions.

#### 9. The City of Shelton may grant relief from Shoreline Master Program Development standards and use regulations resulting from shoreline restoration projects within urban growth areas consistent with the procedures in WAC 173-27-215.

8.10. Critical area review shall be conducted and processed in conjunction with the following permits, statements or determinations that are applicable to the primary development proposed:

- a. Statement of Exemption;
- b. Land Use Permit or Building Permit;
- c. Excavation, Grading, Clearing and Erosion Control Permit;
- d. SEPA Threshold Determination;
- e. Shoreline Substantial Development Permit;
- f. Shoreline Conditional Use Permit;
- g. Shoreline Variance; or
- h. Revisions to Shoreline Permits.

## **7.2 Administrative Authority and Responsibility**

### **7.2.1 Shoreline Administrator**

- 1. The Director of Planning and Community Development or his/her designee, hereinafter known as the Shoreline Administrator or Administrator, is vested with:
  - a. Administering this Master Program;



- b. Approving, approving with conditions or denying shoreline substantial development permits in accordance with the policies and provisions of this Master Program, unless a public hearing or appeal is involved;
- c. Granting or revising statements of exemption from shoreline substantial development permits;
- d. Establishing the procedures and preparing forms deemed essential for the administration of this Program;
- e. Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this Program;
- f. Making administrative decisions and interpretations of the policies and regulations of this Program and the Shoreline Management Act;
- g. Collecting applicable fees;
- h. Determining that all applications and necessary information and materials are provided;
- i. Making field inspections, as necessary;
- j. Reviewing, insofar as possible, all provided and related information deemed necessary for appropriate application needs;
- k. Determining if a shoreline substantial development permit, conditional use permit or variance permit is required;
- l. Conducting a thorough review and analysis of shoreline substantial development permit applications making written findings and conclusions and approving, approving with conditions, or denying such permits;
- m. Submitting variance and conditional use permit applications and making written recommendations and findings on such permits to the Hearings Examiner for his/her consideration and official action. The Administrator shall assure that all relevant information and testimony regarding the application is made available to the Hearings Examiner during his/her review;
- n. Assuring that proper notice is given to appropriate persons and the public for permit review and hearings;
- o. Providing the notice to the applicants for posting of permit applications in a conspicuous manner on the project site;
- p. Investigating, developing, and proposing amendments to this 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, or of conditions of any approved shoreline permit issued by the City; and
- r. Coordinating information with affected tribes and agencies.

### 7.2.2 City Council Commission

1. The City of Shelton City Council Commission (Council Commission) is vested with authority to:
  - a. Review and act upon any recommendations of the Administrator for amendments to or revisions of this Program.

### 7.2.3 City Hearings Examiner

1. The City of Shelton Hearings Examiner is vested with authority to:
  - a. Review public input and make decisions on variance requests, conditional use permits, shoreline substantial development permits (when a public hearing is required) and rescissions; provided that the Hearings Examiner's decisions may be further appealed to the State Shorelines Hearings Board as provided for in the Act.
  - b. Consider the Administrator's findings and conclusions pertinent to permit decisions in the case of an appeal made by interested parties or members of the public and render the City's final decision.
  - c. Conduct hearings which are specified in the permit process or which have been requested by the Administrator or member(s) of the public.
  - d. Prepare written findings and conclusions to approve, deny, or condition a permit based on the criteria established in this Master Program, through a public hearing as required by the permit process or by request.

### 7.2.4 State Department of Ecology and Attorney General

1. The duties and responsibilities of the Washington Department of Ecology shall include:
  - a. Reviewing and approving Master Program amendments prepared by the City of Shelton pursuant to WAC 173-26-120 (State Process for Approving/Amending Shoreline Master Programs).
  - b. Reviewing and petitioning for review the City's statements of exemption and shoreline substantial development permit decisions.

- c. Final approval and authority to condition or deny shoreline conditional use permits and shoreline variances filed by the City.

### **7.3 Public Notice Requirements**

1. When a complete application has been received by the Administrator, the Administrator shall provide public notice consistent with SMC 17.06.070 with the following exceptions:
  - a. The notice of application shall be published in the newspaper, at a minimum, once a week, on the same day, for two consecutive weeks.
  - b. Interested persons may submit a written request to the City for a public hearing regarding an application for a shoreline substantial development permit within 30 days following the date of the second legal newspaper notice.

### **7.4 Public Hearing by the Hearings Examiner**

1. A public hearing shall be held by the City Hearings Examiner regarding an application for shoreline conditional use or shoreline variance permits. A public hearing shall be held regarding an application for a shoreline substantial development permit when:
  - a. The Administrator determines that the proposed development is one of public significance and/or would have a significant impact upon the shoreline environment; or
  - b. An appeal of a shoreline substantial development permit is made.
2. The Hearings Examiner shall review an application for a shoreline substantial development, shoreline conditional use or shoreline variance permit using the following information:
  - a. The application;
  - b. Applicable SEPA documents;
  - c. Evidence presented at the public hearing;
  - d. Written and oral comments from interested persons; and
  - e. The findings, conclusions and recommendations of the Administrator.

## 7.5 Notification to Ecology and the Attorney General

1. The Shoreline Administrator shall notify Ecology and the Attorney General of any statement of exemption, substantial development, conditional use or variance permit decisions made by the Shoreline Administrator (or Hearings Examiner when required), whether it is an approval or denial. The notification shall occur after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals has lapsed. When a substantial development permit and either conditional use or variance permit are required for a development, the submittal of the permits shall be made concurrently. The Shoreline Administrator shall file the following with Ecology and the Attorney General using return receipt requested mail:
  - a. A copy of the complete application per WAC 173-27-180;
  - b. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s);
  - c. The final decision or recommendation of the City;
  - d. The permit data sheet per WAC 173-27-990;
  - e. Affidavit of public notice; and
  - f. Where applicable, the documents required by the State Environmental Policy Act (RCW 43.21C).
2. When the project has been modified in the course of the local review process, plans or text shall be provided to Ecology that clearly indicate the final approved plan.
3. Ecology shall review the documentation provided by the Shoreline Administrator for completeness. If Ecology determines that the submittal does not contain all of the documents and information required by this section, Ecology shall identify the deficiencies and notify the City and the applicant in writing. Ecology will not act on conditional use or variance permit submittals until the material requested in writing is received.



## 7.6 Ecology Review

1. After all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes, the City of Shelton will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General in the form identified in Section 7.5, above. Projects that require Conditional Use Permit and/or Variance requests shall be mailed simultaneously with any Substantial Development Permit(s) for the project.
  - a. Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one (21) day appeal period starts with the date of filing, which is defined below:
    - i. For projects that only require a Substantial Development Permit: the date that Ecology receives the decision from the City of Shelton.
    - ii. For a Conditional Use Permit (CUP) or Variance: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City of Shelton.
    - iii. For Substantial Development Permits simultaneously mailed with a CUP or Variance to Ecology: the date that Ecology's decision on the CUP or Variance is transmitted to the applicant and the City of Shelton.
1. ~~Ecology shall make a final decision approving, approving with conditions, or disapproving a shoreline conditional use permit or shoreline variance permit and convey its decision to the City and the applicant within thirty (30) days of the date of filing by the City. The Shoreline Administrator will notify those interested persons having requested notification of such decision.~~
2. ~~Ecology shall base its determination to approve, approve with conditions or deny a conditional use permit or variance permit on consistency with the policy and provisions of the SMA, the criteria listed in this Program and the provisions of WAC 173-27-160 for conditional use permits, WAC 173-27-170 for variances and WAC 173-27-210 relating to minimum standards for conditional use and variance permits.~~
3. ~~Appeals of Ecology decisions on shoreline conditional use permits and shoreline variance permits shall be made to the Shorelines Hearing Board as specified in Section 7.9.2.~~

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## 7.7 Commencement of Development Activity and Permit Validity

1. No construction pursuant to a substantial development permit, shoreline variance or shoreline conditional use authorized by this Program shall begin or be authorized and no building, grading or other construction permits shall be issued by the City until twenty-one (21) days from the date the permit decision was filed or until all review proceedings are terminated.
2. Construction may be commenced no sooner than thirty (30) days after the date of the Shoreline Hearings Board's decision is filed if a permit is granted by the City of Shelton, and
  - a. The granting of the permit is appealed to the Shorelines Hearings Board within twenty-one (21) days of the date of filing;
  - b. The Hearings Board approves the granting of the permit by the local government or approves a portion of the substantial development for which the local government issued the permit; and
  - c. An appeal for judicial review of the Hearings Board decision is filed pursuant to Chapter 34.05 RCW.
3. 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 a substantial development permit. The Shoreline Administrator may authorize a single extension for a period not to exceed one (1) year based on reasonable factors, if a request for extension has been filed before the expiration date and notice of proposed extension is given to parties of record on the substantial development permit and to Ecology.
4. Authorization to conduct construction activities shall terminate five (5) years after the effective date of a substantial development permit. However, 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 WAC 173-27-090 the City may adopt different time limits as a part of action on a substantial development permit. The Shoreline Administrator may authorize a single extension if it has been filed before the expiration date and notice of the proposed extension is given to parties of record and Ecology.

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## 7.8 Revision of Permits

1. A permit revision is required whenever an applicant proposes substantive changes to the design, terms or conditions of a project from that which was 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 and/or the policies and provisions of Chapter 90.58 RCW. Changes which are not substantive in effect do not require approval of a revision. All revisions shall be processed in accordance with WAC 173-27-100.
2. When an applicant seeks to revise a permit, the applicant shall submit detailed plans and text describing the proposed changes in the permit and demonstrating compliance with Section 7.8, Regulation #4 and WAC 173-27-100.
3. If the proposed changes are determined by the Shoreline Administrator to be within the scope and intent of the original permit, and are consistent with the SMA (RCW 90.58), and this SMP, the revision shall be approved by the Shoreline Administrator.
4. "Within the scope and intent of the original permit" means the following:
  - a. No additional overwater construction will be involved except that pier, dock, or float construction may be increased by five hundred (500) square feet or ten percent (10%) from the provisions of the original permit, whichever is less.
  - b. Lot coverage and height may be increased a maximum of ten percent (10%) from the provisions of the original permit: Provided, that revisions involving new structures not shown on the original site plan shall require a new permit.
  - c. The revised permit does not authorize development to exceed height, lot coverage, setback or any other requirements of this SMP except as authorized under a variance granted as the original permit or a part thereof.
  - d. Landscaping may be added to a project without necessitating an application for a new permit. Provided, that the landscaping is consistent with conditions (if any) attached to the original permit and is consistent with this SMP.
  - e. The use authorized pursuant to the original permit is not changed.
  - f. No adverse environmental impact will be caused by the project revision.



5. 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, this regulation and the local 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.
6. If the sum of the revision and any previously approved revisions under WAC 173-27-100 or this section violate the provisions in Section 7.8, Regulation #4, local government shall require that the applicant apply for a new permit.
7. 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 the action.
8. If the revision to the original permit involves a conditional use or variance, the Shoreline Administrator shall submit the revision to Ecology for approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of WAC 173-27.
9. Upon receipt of Ecology's final decision, the Shoreline Administrator shall within 14 days notify parties of record of Ecology's final decision.
10. The revised permit is effective immediately upon final decision by Shoreline Administrator, when appropriate under Section 7.8, Regulation #8, upon final action by Ecology.
11. Appeals shall be in accordance with RCW 90.58. Appeals shall be based only upon contentions of noncompliance with the provisions of Section 7.8, Regulation #8. Construction undertaken pursuant to that portion of a revised permit not authorized under the original permit is at the applicant's own risk until the expiration of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and intent of the original permit, the decision shall have no bearing on the original permit.



## 7.9 Appeals

### 7.9.1 Local Appeals

1. Any decision or ruling made by the Administrator on a substantial development permit, Master Program policy or regulation interpretation, permit revision, or other action within the purview and responsibility of the Administrator, may be appealed by the applicant, private or public organization, or individual to the City of Shelton Hearings Examiner within ten (10) calendar days following the issuance of a written decision by the Administrator. Such appeals shall be initiated by filing with the City Planning Department, who will forward to the Shoreline 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 the Commission. The Hearings Examiner shall hear the appeal as soon thereafter as is feasible. The Hearings Examiner, using the applicable decision making criteria established in this Master Program, shall affirm, modify, or reverse the decision of the Administrator. This decision of the Hearings Examiner shall be the final local government decision. An appeal or request for reconsideration of the Hearing Examiner's decision shall be consistent with Shelton Municipal Code Chapter 2.36. Appeals of Hearings Examiner decisions must be filed with the State Shoreline Hearings Board pursuant to Section 7.9.2 of this Master Program.

### 7.9.2 State Shorelines Hearing Board

1. Any person aggrieved by the granting, denying, rescission or modification of a shoreline permit may seek review from the State Shorelines Hearings Board as governed by the procedures established in RCW 90.58.180 (Appeals from Granting, Denying, or Rescinding Permits) and WAC 461-08 (Practice and Procedure, Review of the Granting, Denying or Rescinding of Substantial Development Permits, Hearings). All appeals of any final permit decision must be made to the Shorelines Hearings Board within twenty-one (21) days from the date the permit decision was filed.
2. The provisions of this section shall apply to any final order, requirement, permit, decision, or determination on land use proposals made by the Shoreline Administrator, Hearings Examiner on appeal. These may include, but are not limited to, shoreline substantial development permits, statements of exemption, shoreline conditional use permits, shoreline variances, and shoreline revisions.

### 7.9.3 State Growth Management Hearings Board

1. Ecology's decision on an SMP amendment including a map amendment may be appealed to the Growth Management Hearings Board in accordance with RCW 90.58.190.

### 7.10 Master Program Review

1. This Master Program shall be periodically reviewed and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and regulations.
2. This review process shall be consistent with RCW 90.58.050 and WAC 173-26-090 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

### 7.11 Amendments to Master Program

1. Any of the provisions of this Master Program may be amended as provided for in WAC 173-26-100, 104, and 110, and 120. Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.
2. Proposals for shoreline environment redesignations (i.e., amendments to the shoreline maps and descriptions) must demonstrate consistency with the criteria set forth in Shoreline Environment Designation Criteria and the Shelton Comprehensive Plan.

### 7.12 Enforcement

Violations of the SMP shall be enforced pursuant to the provisions of SMC Chapter 17.08 Enforcement.

## **Attachment 6**

### **Chapter 8 of the City of Shelton Shoreline Master Program**

**(2020/21 Shoreline Master Program Periodic Update  
Draft, January 2021)**

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## CHAPTER 8

### DEFINITIONS

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**Accessory Use** - Any structure or use incidental and subordinate to a primary use or development.

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

**Act** - The Washington Shoreline Management Act (SMA) of 1971, as amended, Chapter 90.58 RCW.

**Adjacent Lands** - Lands adjacent to the shorelines of the state or shorelands, and therefore outside of shoreline jurisdiction as defined by the SMA. 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 Master Program. See RCW 90.58.340.

**Administrator** - The City of Shelton Director of Planning or his/her designee, charged with the responsibility of administering this Shoreline Master Program.

**Agricultural Activities** - Agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

New agricultural activities are activities that meet the definition of agricultural activities but are proposed on land not currently in agricultural use.

Agricultural products include, but are not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products



including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products;

Agricultural equipment and agricultural facilities include, but are not limited to:

1. The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains;
2. Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; and
3. Farm residences and associated equipment, lands, and facilities.

Agricultural facilities do not include seasonal farmers' markets, and roadside fruit and vegetable stands.

Agricultural lands means those specific land areas on which agricultural activities are conducted as of the date of adoption of a local Master Program pursuant to the state guidelines adopted December 17, 2003, as evidenced by aerial photography or other documentation. After the effective date of the Master Program, land converted to agricultural use is subject to compliance with the requirements of the Master Program (WAC 173-26-020).

**Amendment** - A revision, update, addition, deletion, and/or re-enactment to an existing Shoreline Master Program (WAC 173-26-020).

**Applicant** - An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

**Approval** - An official action by a local government legislative body agreeing to submit a proposed Shoreline Master Program or amendments to Ecology for review and official action; or an official action by Ecology to make a local government Shoreline Master Program effective, thereby incorporating the approved SMP or amendment into the state Master Program (WAC 173-26-020).

**Appurtenance** - An appurtenance is necessarily connected to the use and enjoyment of a single-family residence. Normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield and grading which does not exceed two hundred fifty (250) cubic yards (except to construct a conventional drainfield) (WAC 173-27-040(2)(g)).

**Aquaculture** - The culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. (WAC-26-241(3))

**Associated Wetlands** - Those wetlands which are in proximity to and either influence or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act (WAC 173-22-030)

**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 located under the proposed building or structure. In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure (WAC 173-27-030). Structures within shoreline jurisdiction shall comply with the definition contained herein.

**Backshore** - The accretion or erosion zone, located landward of the line of ordinary high tide, which is normally wetted only by storm tides. It may take the form of a more or less narrow storm berm (ridge of wave heaped sand and/or gravel) under a bluff or it may constitute a broader complex of berms, marshes, meadows, or dunes landward of the line of ordinary high tide. It is part of the littoral drift process along its seaward boundary.

**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** - Process of replenishing a beach by delivery of materials dredged or excavated elsewhere.

**Bedlands** - The bed of navigable waters.

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

**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 Available Technology** - The most effective method, technique, or product available which is generally accepted in the field, and which is demonstrated to be reliable, effective, and preferably requires low maintenance.

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



**Boat House** - Any walled and roofed structure built over water or upland and used for storage of watercraft or float planes and associated equipment and not used as a dwelling unit.

**Boating Facilities** – Marinas, both backshore and foreshore, dry storage and wet moorage types, liveaboards, boat launches, covered moorage, boathouses, mooring buoys, marine travel lifts, floats, piers and docks.

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

**Bog** - A type of wetland where (1) organic (peat or muck) soil layers comprise at least 16 of the first 32 inches of the soil profile; or (2) there is more than 70% cover of mosses at ground level and more than 30% of the total shrub and herbaceous cover consists of species listed in Table 3 – Characteristic Bog Species in Washington State found in Hraby, 2004, Washington State Wetlands Rating System for Western Washington, Ecology publication #04-06-025, or as revised by Ecology. Many bogs have soils classified as peat or muck, are nutrient poor, have a low pH (acidic), and are fed largely by rainfall rather than streams or groundwater. .

**Breakwater** - Offshore structure, sometimes shore-connected, that provides protection from waves.

**Buffer** - The area adjacent to the outer boundaries of a critical area, such as wetlands, habitat conservation areas (streams, marine shorelines), and/or landslide hazard areas, that provides an area for related ecological functions to take place and/or separates and protects critical areas from adverse impacts associated with adjacent land uses..

**Bulkhead** - A solid or open pile wall erected generally parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from erosion by wave action.

A normal protective bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion. (WAC 173-27-040)

**Buoy** – See Mooring Buoy.

**Channel** - An open conduit for water either naturally or artificially created, but does not include artificially created irrigation, return flow, or stockwatering channels .

**Channel Migration Zone** - The area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings (WAC 173-26-020). It encompasses that area of current and historic lateral stream channel movement that is subject to

erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion.

**City** - The City of Shelton, Washington.

**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.

**CFR** - Code of Federal Regulations.

**Clearing** - The removal of vegetation or plant cover by manual, chemical, or mechanical means. Clearing includes, but is not limited to, actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, uprooting, or burning.

**Commercial Development** - Uses that are involved in wholesale, retail, service and business trade. Examples of commercial uses include hotels, motels, grocery markets, shopping centers, restaurants, shops, offices, and private or public indoor recreation facilities. Excluded from this definition are residential subdivisions, boating uses and industry.

**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.

**Conditional Use** - A use, development, or substantial development which is classified as a conditional use or is not classified within the Master Program (WAC 173-27-030).

**Conditional Use Permit** - Local governments are authorized under the SMA to include provisions for authorizing land uses and developments that may be permitted by conditional use permits (CUP). The purpose of the conditional use permit is to allow greater flexibility in varying the application of the use regulations of the Master Program.

**Covered Moorage** - Boat moorage, without walls, that has a roof to protect a vessel.

**Critical Areas** - The following areas as required in SMC 21.64 shall be regarded as critical areas:

1. Critical aquifer recharge areas (see SMC Chapter 21.66).
2. Wetlands.
3. Geologically hazardous areas.
4. Frequently flooded areas.
5. Fish and wildlife habitat conservation areas.

**Critical Saltwater Habitats** - All kelp beds; eelgrass beds; spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial



and recreational shellfish beds; mudflats; intertidal habitats with vascular plants; and areas with which priority species have a primary association (WAC 173-26-221).

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

**Development** – An activity 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 the Shoreline Management Act of 1971 at any state of water level (RCW 90.58.030(3)(a)). “Development” does NOT include projects that only involve dismantling or removing structures without any associated development or redevelopment.

**Development Regulations** - The controls placed on development or land uses, including, but not limited to, zoning ordinances, critical areas ordinances, all portions of a Shoreline Master Program other than goals and policies approved or adopted under Chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto (WAC 173-26-020).

**Dock** – A landing and/or moorage facility which abuts the shoreline; is used for commercial and/or pleasure craft; and does not include recreational decks, storage facilities or other appurtenances (WAC 173-27-040).

**Dock, Community** – A dock which is intended for the common use of the residents of a particular subdivision or community.

**Dock, Joint-Use** - A dock serving two or more lots each of which has water frontage.

**Dredge Spoil or Dredge Material Disposal**- Dredge spoil is the material removed by dredging. Dredge material disposal is the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands for other uses or disposing of the byproducts of dredging.

**Dredging** - The removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any stream, river, lake or marine water body and associated wetlands. .

**Drift Sector or Drift Cell** - A particular reach of marine shore in which littoral drift may occur without significant interruption, and which contains any and all natural sources of such drift, and also any shoreform(s) accreted by such drift. Each normal drift sector contains these shore process elements: feeder bluff or estuary, driftway, littoral drift, and accretion shoreform.

**Driftway** - That portion of the marine shore process corridor, primarily the upper foreshore, through which sand and gravel are transported by littoral drift. The

driftway is the essential component between the feeder bluff and the accretion shoreform of an integral drift sector. Driftways are also characterized by intermittent, narrow berm beaches.

**Ecological Functions or Shoreline Functions** - The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem(WAC 173-26-200 (2)(c)).

**Ecology** - The Washington State Department of Ecology, also referred to as the Department.

**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.

**Effective Date of Permit** - The effective date of shoreline substantial development, conditional use and variance permits shall be the date of filing (for shoreline substantial development permit the date of filing is the date Ecology receives the local government's decision; for conditional use and variance permits the date of filing is the date Ecology's decision is transmitted to the local government).

**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 provisions of this Master Program. Emergency construction does not include development of new permanent protective structures where none previously existed (WAC 173-27-040).

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

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

**Estuary** - The zone in which fresh water and saltwater mingle and affect the total land and water habitat.

**Estuarine Zone, Estuary** - The zero-gradient sector of a stream where it flows into a standing body of water together with associated wetlands; tidal flows reverse flow in this zone twice daily, determining its upstream limit. It is characterized by low bank channels branching off the main streamway to form a broad, near-level delta; bank, bed and delta materials are typically silt and clay, banks are stable, vegetation ranges from marsh to forest, and water is usually brackish due to daily mixing and



layering of fresh and salt water. Estuarine shores are rich in aquatic and other bird and animal life, and in their natural condition are the most productive of all shoreline habitats in terms of the marine food chain.

**Exemption** - Exempt developments are those set forth in Section 2.3.2 of this Program which are not required to obtain a shoreline substantial development permit but which must otherwise comply with applicable provisions of the act and the local Master Program. Conditional use and/or variance permits may also be required even though the activity does not need a substantial development permit (WAC 173-27-030).

**Extreme Low Tide** - The lowest line on the land reached by a receding tide (RCW 90.58.030(2)(a)). For the purposes of the Shoreline Master Program, it is the contour 4.5 feet below mean lower low water (WAC 332-30-106 (18)).

**Fair Market Value** - The open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials. (WAC 173-27-030).

**Feasible** - An action, such as a development project, mitigation, or preservation requirement, that meets all of the following conditions:

1. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
2. The action provides a reasonable likelihood of achieving its intended purpose; and
3. The action does not physically preclude achieving the project's primary intended legal use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames (WAC 173-26-020).

**Feeder Bluff, Erosional Bluff** - Any bluff (or cliff) experiencing periodic erosion from waves, sliding or slumping, whose eroded earth, sand or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform. These

natural sources of beach material are limited and vital for the long-term stability of driftways and accretion shoreforms.

**Fill** - The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land (WAC 173-26-020).

**Float** - A fixed platform structure anchored in and floating upon a water body that does not connect to the shore, and is used for water-dependent recreation or moorage for vessels or watercraft.

**Floating Home** - A single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a boat, even though it may be capable of being towed.. (See also Houseboat.)

**Floodplain** - Synonymous with one-hundred (100) year floodplain and refers to the land area susceptible to inundation with a one percent (1%) chance of being equaled or exceeded in any given year. The limits of this area are based on flood ordinance regulation maps or a reasonable method which meets the objectives of the SMA (WAC 173-26-020).

**Floodway** - The area, as identified in this Program, that has been established in Federal Emergency Management Agency flood insurance rate maps or floodway maps. 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 (RCW 90.58.030(2)(b)).

**Foreshore** - The intertidal area between mean higher high water and mean low water.

**Forest Practice** - Uses and activities relating to the growing, harvesting and limited processing of timber. This includes, but is not limited to, (1) site preparation and regeneration; (2) protection from insects, fire and disease; (3) silvicultural practices such as thinning, fertilization and release from competing vegetation; and (4) harvesting.

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

**Geotechnical Report or Geotechnical Analysis** - A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed



development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes (WAC 173-26-020).

**Grading** - The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land (WAC 173-26-020).

**Grassy Swale** - A vegetated drainage channel that is designed to remove various pollutants from stormwater runoff through biofiltration.

**Groin** (also referred to as a spur dike or rock weir) - A barrier-type structure extending from the backshore or streambank into a water body for the purpose of the protection of a shoreline and adjacent upland by influencing the movement of water and/or deposition of materials.

**Guidelines** - Those standards adopted by Ecology to implement the policy of Chapter 90.58 RCW and WAC 173-26 for regulation of use of the shorelines of the state prior to adoption of Master Programs. Such standards shall also provide criteria for local governments and Ecology in developing and amending Master Programs (WAC 173-26-020).

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

**Hearing(s) Board or State Shorelines Hearings Board** - Established by the Shoreline Management Act of 1971 to decide appeals of cases involving shoreline substantial development permits, conditional uses, or variances (RCW 90.58.030).

**Hearings Examiner** - The Hearings Examiner of the City of Shelton.

**Height** - The distance measured from the average grade level to the highest point of a structure; provided that television antennas, chimneys, flag poles, and similar appurtenances shall not be used in calculating height except where such appurtenances obstruct the view of the shoreline of a substantial number of residences adjoining such shorelines. Temporary construction equipment is excluded in this calculation (WAC 173-27-030). For all overwater structures height shall be measured from ordinary high water mark.

**Houseboat** - A structure used for living quarters which may be licensed as a vessel but is designed primarily to be a residence. See also Floating Home.

**HPA** - Hydraulic Project Approval. The permit issued by the Washington State Department of Fish and Wildlife pursuant to the State Hydraulic Code Chapter 75.20.100-140 RCW and Chapter 220-110 WAC.

**Industrial Development** - Facilities for processing, manufacturing and storage of finished or semi-finished goods. Examples of industrial development include container ship terminals, log storage, log rafting, lumber milling and processing, petroleum storage, transport and storage, ship building, and tug and barge operations.

**Institutional Uses** - Facilities for the provision of educational, medical, cultural, social, public safety, and/or recreational services to the community, including but not limited to schools, colleges, libraries, museums, community centers, government offices, and the relevant essential public facilities identified in WAC 365-196-550.

**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. In-stream structures may include those for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, or other purpose (WAC 173-26-241).

**Intertidal** - The substratum from extreme low water of spring tides to the upper limit of spray or influence from ocean derived salts. It includes areas that are sometimes submerged and sometimes exposed to air, mud and sand flats, rocky shores, salt marshes, and some terrestrial areas where salt influences are present.

**Jetty** - Structures that are generally perpendicular to shore extending through or past the intertidal zone. They are built singly or in pairs at harbor entrances or river mouths mainly to prevent shoaling or accretion from littoral drift in entrance channels, which may or may not be dredged. Jetties also serve to protect channels from storm waves or cross currents, and stabilize inlets through barrier beaches. Most jetties are of riprap mound construction.

**Levee** - A large dike or embankment, often having an access road along the top, which is designed as part of a system to protect land from floods.

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

**Littoral Drift** - The movement of mud, sand, or gravel material parallel to the shoreline in the nearshore zone by waves and currents.

**Liveaboard** - A boat principally used as an overwater residence, being occupied in a single location for a period exceeding two (2) months in any one (1) calendar year. Liveaboards 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 boat.

**Marina** - A water-dependent use that consists of a system of piers, buoys, or floats providing permanent or long-term moorage for ten (10) or more vessels. Community moorage facilities, yacht club facilities, and camp or resort moorage



areas providing moorage for ten (10) or more vessels are also included in this definition.

**Marine** – Tidally influenced waters of Puget Sound and associated bays, estuaries and inlets.

**Marine Travel Lift** - A mechanical device or sling that can hoist vessels off trailers and transport them into the water. Often associated with dry land moorage.

**Mark** - A visible line on the bank with respect to vegetation, soil, or other physical line created by erosion, barnacles, or leaching. In the case of two hydrologic systems interacting at the site, the higher of the two marks is used.

**Master Program** - The comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020 (RCW 90.58.030).

**May** - The action is acceptable, provided it conforms to the provisions of this Master Program (WAC 173-26-020).

**Mean Higher High Water (MHHW)** - The arithmetic mean of the higher of two daily high tides calculated from the most recent 19 year tidal cycle. It is measured from the mean lower low water = 0.0 tidal elevation (WAC 220-110-020).

**Mean Lower Low Water (MLLW)** - The arithmetic mean of the lower of two daily low tides calculated from the most recent 19 year tidal cycle (elevation: 0.0 feet) (WAC 220-110-020).

**Mining** - The removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses. Historically, the most common form of mining in shoreline areas is for sand and gravel because of the geomorphic association of rivers and sand and gravel deposits (WAC 173-26-241).

**Mooring Buoy** - A buoy secured to the bottom by permanent moorings and provided with means for mooring a vessel by use of its anchor chain or mooring lines.

**Must** - A mandate; the action is required (WAC 173-26-020).

**Natural Topography or Existing Topography** - The topography of the lot, parcel, or tract of real property immediately prior to any site preparation or grading, including excavation or filling (WAC 173-27-030).

**Nonconforming Development** - A structure or development 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).

**Nonconforming Use** – A use or activity that was lawfully established prior to the date of the applicable SMA/SMP and which no longer conforms to the applicable shoreline provisions (WAC 173-27-080).

**Nonwater-oriented Use** - Those uses that are not water-dependent, water-related, or water-enjoyment (WAC 173-26-020).

**Normal Maintenance** - Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition (WAC 173-27-040). See Normal Repair.

**Normal Protective Bulkhead** - See Bulkhead.

**Normal Repair** - To restore a development to a state comparable to its original condition, including but not limited to its size, shape configuration, location and external appearance, within a reasonable period after decay or partial destruction except where repair causes substantial adverse effects to the shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment. (WAC 173-27-040). See Normal Maintenance.

**OHW, 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 the City or Ecology: provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water (RCW 90.58.030). The following criteria clarify this mark on those waters within the City of Shelton per WAC 173-22-030(5), specifically, lakes, streams and marine waters.

1. Tidal waters.
  - a. In high energy environments where the action of waves or currents is sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the line of vegetation. Where there is no vegetative cover for less than one hundred (100) feet parallel to the shoreline, the ordinary high water mark is the average tidal elevation of the adjacent lines of vegetation. Where the ordinary high water mark cannot be found, it is the elevation of mean higher high tide;



- b. In low energy environments where the action of waves and currents is not sufficient to prevent vegetation establishment below mean higher high tide, the ordinary high water mark is coincident with the landward limit of salt tolerant vegetation. "Salt tolerant vegetation" means vegetation which is tolerant of interstitial soil salinities greater than or equal to 0.5 parts per thousand;
2. Lakes. Where the ordinary high water mark cannot be found, it shall be the line of mean high water;
3. Streams. Where the ordinary high water mark cannot be found, it shall be the line of mean high water. For braided streams, the ordinary high water mark is found on the banks forming the outer limits of the depression within which the braiding occurs.

**Parking** - Temporary storage of automobiles or other motorized vehicles.

**Periodic** - Occurring at regular intervals.

**Permit (or Shoreline Permit)** - Any substantial development, variance, conditional use permit, or revision, or any combination thereof, authorized under Chapter 90.58 RCW (WAC 173-27-030).

**Pier** - A fixed platform structure supported by piles generally built from the shore and extending out over the water to provide water access or moorage.

**Pier, Community** - A pier which is intended for the common use of the residents of a particular subdivision or community.

**Pier, Joint-Use** - A pier serving two (2) or more lots each of which has water frontage.

**Point** - A low profile shoreline promontory that may be either the wave-cut shelf remaining from an ancient bluff or the final accretional phase of a hooked spit that closed the leeward side gap.

**Port** - A public enterprise providing services and facilities for commerce, transportation and economic development.

**Primary Structure** - The structure associated with the principal use of the property. It may also include single family residential appurtenant structures (such as garages, attached decks, driveways, utilities, and septic tanks and drainfields) that cannot feasibly be relocated. It does not include structures such as tool sheds, gazebos, greenhouses, or other ancillary residential improvements that can feasibly be moved landward to prevent the erosion threat.

**Provisions** - Policies, regulations, standards, guideline criteria or environment designations (WAC 173-26-020).

**Public Access** - The ability of the general public to reach, 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 (WAC 173-26-221).

**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 including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development (WAC 173-27-030).

**RCW** - Revised Code of Washington.

**Recreational Development** - Commercial and public facilities designed and used to provide recreational opportunities to the public (WAC 173-26-241).

**Residential Development** - Development of single-family and multi-family residences and their normal appurtenances, and the creation of new residential lots through land division.

**Restore, Restoration, Ecological Restoration** - The reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions (WAC 173-26-020).

**Revetment** - Facing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by waves or currents.

**Riparian Corridor or Riparian Zone** - The area adjacent to a water body (stream, lake or marine water) that contains vegetation that influences the aquatic ecosystem, nearshore area and/or and fish and wildlife habitat by providing shade, fine or large woody material, nutrients, organic debris, sediment filtration, and terrestrial insects (prey production). Riparian areas include those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems (i.e., zone of influence). Riparian zones provide important wildlife habitat. They provide sites for foraging, breeding and nesting; cover to escape predators or weather; and corridors that connect different parts of a watershed for dispersal and migration.

**Riparian Vegetation** - Vegetation that tolerates and/or requires moist conditions and periodic free-flowing water thus creating a transitional zone between aquatic and terrestrial habitats which provides cover, shade and food sources for aquatic and terrestrial insects for fish species. Riparian vegetation and their root systems stabilize streambanks, attenuate high water flows, provide wildlife habitat and travel corridors, and provide a source of limbs and other woody debris to terrestrial and aquatic ecosystems, which, in turn, stabilize streambeds.



**Riprap** - A layer, facing, or protective mound of stones placed to prevent erosion, scour, or sloughing of a structure or embankment.

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

**Seaward** - To or toward the sea.

**Sediment** - The material deposited by water or wind.

**Setback** - The distance an activity, building, or structure must be located from the edges of all critical area buffers or from the edges of all critical areas if no buffers are required.

**Shall** - A mandate; the action must be done (WAC 173-26-020).

**Shorelands or Shoreland Areas** - Those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred (200) feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of Chapter 173-22 WAC, as may be amended; the same to be designated as to location by Ecology, as defined by RCW 90.58 (RCW 90.58.030).

**Shoreline Administrator** - The City of Shelton Director of Planning and Community Development or his/her designee responsible for administering this Program.

**Shoreline Environment Designations** - The categories of shorelines established by this Program in order to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas (WAC 173-26-211).

**Shoreline Jurisdiction** - All shorelines of the state and shorelands (WAC 173-26-020 and RCW 90.58.030).

**Shoreline Master Program (SMP), Master Program or Program** - The comprehensive use plan for a described area and the use regulations together with maps, diagrams, charts or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a Shoreline Master Program approved under Chapter 90.58 RCW shall be considered an element of the city's comprehensive plan. All other portions of the Shoreline Master Program for a city adopted under Chapter 90.58 RCW, including use regulations, shall be considered a part of the city's development regulations (WAC 173-26-020).

**Shoreline Modifications** - Actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other



shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals (WAC 173-26-020).

**Shoreline Permit** - See Permit.

**Shoreline Stabilization** - Actions taken to address erosion impacts to property and structures caused by processes such as current, flood, wind, or waves. These actions include structural and nonstructural methods. Structural measures include but are not limited to bulkheads, revetments, riprap and soft structural measures such as bioengineering or beach enhancement. Nonstructural measures include building setbacks, relocation of structures, and groundwater management.

**Shorelines** - All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except: (a) shorelines of statewide significance; (b) shorelines on segments of streams upstream of a point where the mean annual flow is twenty (20) cubic feet per second or less, and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes. See RCW 90.58.030(2)(d) and WAC 173-18, 173-26 and 173-22.

**Shorelines Hearings Board (SHB)** - See Hearings Board.

**Shorelines of Statewide Significance** - A select category of shorelines of the state, defined in RCW 90.58.030(2)(f), where special policies and regulations apply. Within the jurisdiction of the City of Shelton, those areas of Puget Sound lying seaward from the line of extreme low tide qualify as shorelines of statewide significance.

**Shorelines of the State** - The total of all “shorelines” and “shorelines of statewide significance” within the state (RCW 90.58.030).

**Should** - The particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and the Guidelines, against taking the action (WAC 173-26-020).

**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.

**Significant Vegetation Removal** - The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal (WAC 173-26-020).

**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).

**SMA** - The Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

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

**Spit** - An accretion shoreform which extends seaward from and parallel to the shoreline. They are usually characterized by a wave-built berm on the windward side and a more gently sloping, silt or marshy shore on the lagoon or leeward side. A curved spit is normally called a hook.

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

**Substantial Development** - Any development of which the total cost or fair market value exceeds six thousand four hundred and sixteen dollars (\$6,416), 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 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. See also Development and Exemption.

**Substantially Degrade** - To cause significant ecological impact (WAC 173-26-020).

**Subtidal** - The area of the marine environment below extreme low tide.

**Sustainable Development** - Development which maintains a balance between the health of the natural environment and the needs of the human community which lives within it.

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

**Tidal Water** - Includes marine and estuarine waters bounded by the ordinary high water mark. Where a stream enters the tidal water, the tidal water is bounded by the extension of the elevation of the marine ordinary high water mark within the stream (WAC 173-22-030(9)).



**Tidelands** - Land on the shore of marine water bodies between the line of ordinary high tide and the line of extreme low tide.

**Transportation Facility** - Structures and developments that aid in land and water surface movement of people, goods, and services.

**Upland** - Generally described as the dry land area above and landward of the OHWM.

**Utilities** - Services and facilities that produce, convey, store, or process power, power, oil, gas, natural gas, sewage, communications, water and the like.

**Utilities, Accessory** - On-site utility features serving a primary use, such as a water, sewer or gas line to a residence.

**Variance** - A means to grant relief from the specific bulk, dimensional or performance standards specified in the Master Program and not a means to vary a use of a shoreline (WAC 173-27-030).

**Vegetation Conservation** - Includes activities to protect and restore vegetation along or near marine and freshwater shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species (WAC 173-26-221).

**Vessel** - A ship, boat, barge, or any other floating craft which is designed and used for navigation and does not interfere with normal public use of the water.

**WAC** - Washington Administrative Code.

**Water-dependent** - A use or a portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations (WAC 173-26-020). Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, log haulout/float areas, ship building and dry docking, marinas, aquaculture, float plane facilities, and sewer outfalls.

**Water-enjoyment** - Recreational uses, or other uses that facilitate 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 specific aspects of the use that foster shoreline enjoyment (WAC 173-26-020). Examples may include parks, piers, museums, restaurants, educational/scientific reserves and resorts.



**Water-oriented** - A use that is water-dependent, water-related, or water-enjoyment use, or a combination of such uses (WAC 173-26-020). Nonwater-oriented examples include professional offices, automobile sales or repair shops, mini-storage facilities, multi-family residential development, department stores, and gas stations.

**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 Master Program, the term "water quantity" refers only to development and uses regulated under the Shoreline Management Act and affecting water quantity, such as impermeable surfaces and stormwater handling practices. Water quantity, for purposes of this Master Program, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340 (WAC 173-26-020).

**Water-related** - 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) The use has 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 uses and the proximity of the use to its customers makes its services less expensive and/or more convenient (WAC 173-26-020).

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.

**WDFW** - Washington Department of Fish and Wildlife.

**Weeds** - Invasive nonnative shoreline vegetation or plants listed on the State Noxious Weed List.

# STREET IMPROVEMENT STANDARDS POLICY DISCUSSION



January 19, 2021



1917 Dirt Road



1926 First Roadway Paving

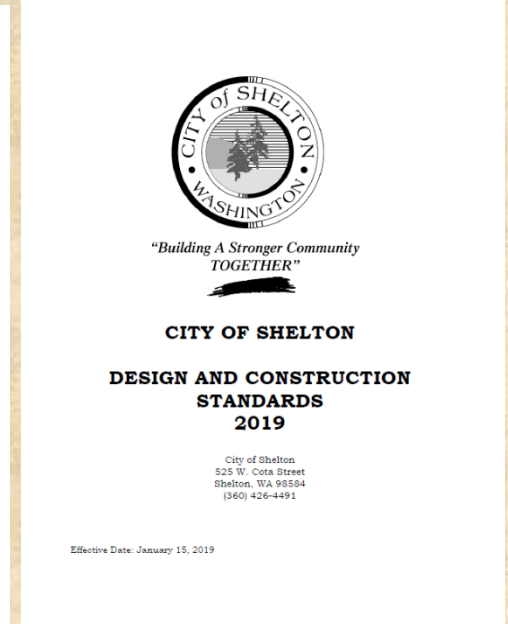
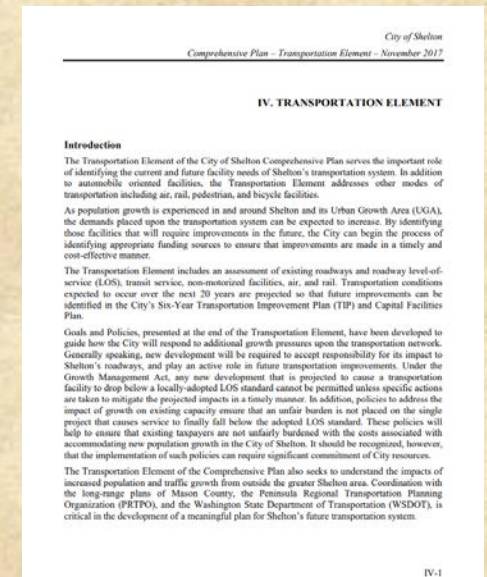


Cota Street, 1940's



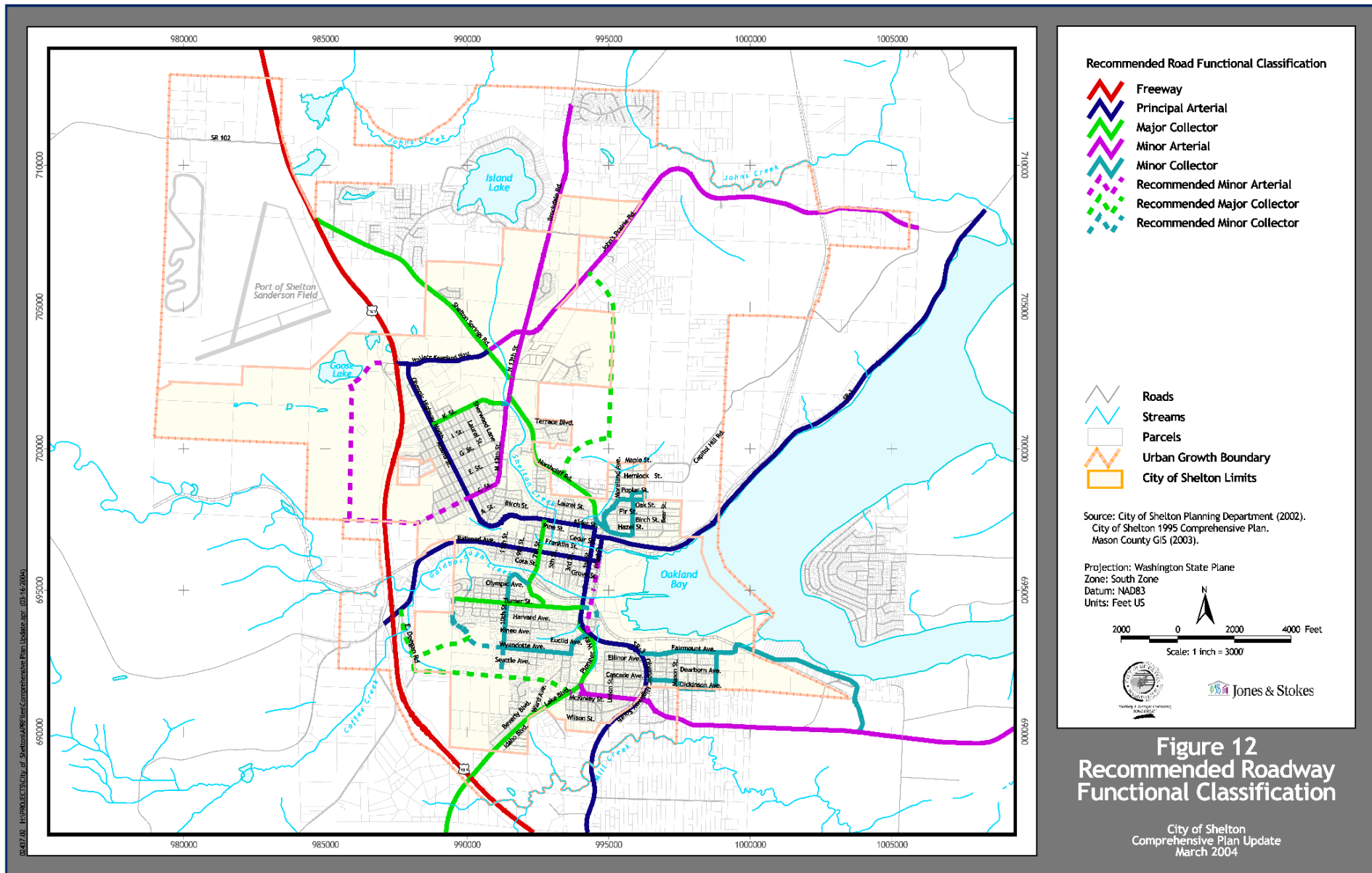
# Shelton Street Standards Reference Documents:

1. 2017 City of Shelton Comprehensive Plan, Section IV, Transportation Element.
2. Shelton Municipal Code, Title 12, Streets and Sidewalks.
3. 2018 International Fire Code (to Council in February 2021).
4. 2019 State Department of Ecology Storm Water Management Manual for Western Washington (to Council in February 2021).
5. 2019 Shelton Design and Construction Standards.





# 2017 COMPREHENSIVE PLAN FUNCTIONAL CLASSIFICATION MAP





# Functional Classification Roadway Descriptions:



**Freeway:** Limited Access, High Average Daily Traffic (ADT)  
E.g.: Highway 101



**Principal Arterial:** Limited Access, High ADT  
E.g.: Highway 3, Railroad Ave, Olympic Highway North.



**Minor Arterial:** Limited Access, Moderate ADT  
Eg: Brockdale Road, N. 13<sup>th</sup> St, E. Arcadia Ave, Johns Prairie Rd.



**Major Collector:** Increased Access, Moderate ADT  
Eg: Lake Blvd, Turner Ave, Northcliff Rd, Shelton Springs Rd.



**Minor Collector:** Increased Access, Lower ADT  
E.g.: S. 10<sup>th</sup> St, Wyandott Ave, Fairmont Ave, San Joaquin Ave.



**Local Street:** Full Access, Low ADT  
Eg: Cota St, Bayview Ave, Washington St, Thyme St.



## **2017 Comprehensive Plan, Section IV, Transportation Element Criteria:**

1. Page IV-3: Roadway Functional Classifications: Based on state law, cities and counties are required to adopt a street classification system that is consistent with State and Federal guidelines. Each local jurisdiction is responsible for defining its transportation system into the following functional classifications: Freeway, Principal Arterial, Minor Arterial, and Collector. All other roadways are Local Access streets.

**Comment:** Chapter 2 of the 2019 City Engineering Design and Construction Manual contains street improvement standards for the various functional classes of roadways: arterial, collector, alley, and local roads identified in the 2017 Comprehensive Plan.

### 2. Page IV-10: Pedestrian and Bicycle Facilities

The City of Shelton Public Works Department is currently in the development stages of a sidewalk prioritization plan. The plan will lay the groundwork/methodology the Public Works Department will utilize to expand the City's sidewalk system. The City's development standards require most new commercial development to install sidewalks in conjunction with the proposed development. Further, all new subdivisions are required to install comprehensive sidewalks in conjunction with new street installations. Further, the Department is also in the process of developing a Complete Streets policy that creates a vision for the community to provide for streets that accommodate all users including pedestrians, bicyclists, transit and transit passengers of all ages and abilities, as well as trucks, buses, and automobiles. The policy will be utilized by City staff when developing plans for new or retrofit streets

**Comment:** Critical pedestrian routes are shown on page 2-20a of the 2019 Design and Construction Standards Manual and are included on page 18 of this document. The Complete Streets Policy is proposed to be completed in 2022. The updated street improvement standards will be part of the future Complete Streets Policy.

### 3. Page IV-30: Transportation Demand Management Strategies:

Transportation Demand Management (TDM) addresses traffic congestion by focusing on reducing travel demand rather than adding more roads and facilities. TDM consists of strategies that seek to maximize the efficiency of the transportation system by reducing demand on the system. The results of successful TDM can include:

- Travelers switch from single-occupancy-vehicle (SOV) to HOV modes such as transit, vanpools or carpools
- Travelers switch from driving to non-motorized modes such as bicycling or walking
- Travelers change the time they make trips from more congested to less congested times of day
- Travelers eliminate trips altogether through such means as compressed workweeks, consolidation of errands, or use of telecommunications
- Shared access in commercial districts

**Comment:** The goal of this Comprehensive Plan element is to designate street improvement standards that will include strategies for non-motorized modes of transportation, such as interconnected biking and walking elements.



## **2017 Comprehensive Plan, Section IV, Transportation Element Criteria (continued):**

### **4. Page IV-35 to 36: Transportation and Land Use:**

T3. Encourage compatibility between transportation facilities and surrounding land uses.

T3a. The City's transportation system shall be planned and designed to support growth and economic vitality in accordance with this Comprehensive Plan.

T3b. The City shall require new development and redevelopment to incorporate transit, pedestrian, and non-motorized transportation supportive measures proportionate to the scale of proposed development, during the development review process, including measures such as:

- Providing adequate sidewalks, pathways, and crosswalks that allow for access by all persons;
- Minimizing walking distances between buildings and streets, sidewalks, and transit stops;
- Clustering buildings;
- Preserving and extending the connectivity of the pedestrian, bicycle, and grid street system;
- Incorporating traffic calming measures in neighborhoods, as appropriate, to reduce speeds and crossing distances;
- Promote shared access; and
- Designing transit access into new developments, as appropriate, considering stops and shelters as part of the overall project, when recommended by the Mason County Transit Authority.

T3c. Public and private development projects shall be designed to be accessible to all citizens and by many different modes of travel.

T3d. The City should explore strategies to improve traffic flow on 1st Street including, but not limited to, establishing one-way couplets, utilizing roundabouts, etc.

**Comment:** The goal of this Comprehensive Plan element is to require that the proposed street improvement standards include design elements for preserving, expanding, and extending the connectivity of the pedestrian, bicycle, and grid street systems for many different modes of travel.

T5. Minimize travel times for people and goods.

T5a. The City should seek to assure convenient access from arterials to residential neighborhoods, employment and retail centers, and major community and government facilities. Development approval should:

- Require that all improved property in the city be conveniently accessible from streets, walkways or trails;
- Maintain continuity of the street pattern by avoiding half streets and non- extendible dead-end streets without adequate turn-around room for emergency vehicles;
- Expand the city's street grid system where feasible; and,
- Avoid the creation of excessively large blocks and long local streets through the development of maximum size guidelines for new City blocks.

**Comment:** The goal of this comprehensive plan element is to ensure that the proposed street improvement standards include the requirement that all improved property be accessible from streets, walkways, and trails, and to avoid streets unsuitable for emergency vehicles. The International Fire Code includes minimum standards for street and fire turn around widths.

# **Shelton Municipal Code:**

## **Title 12, Streets and Sidewalks**

*12.04.010, Sidewalk Specifications, Size and materials of sidewalks along paved streets.*

*On the following named streets in the city of Shelton no sidewalks or crossing shall be hereafter constructed or reconstructed except that the same shall be constructed of concrete at least five feet in width, and the outer edge of said sidewalks shall be at least six feet from the property line: Upon all streets that have been paved, are in the process of being paved, or that may hereafter be paved.*

**Comment:** The goal of this municipal code provision is to set the minimum width of sidewalks in the City at five feet. Revised sidewalk standards locate sidewalks adjacent to the property line to allow for roadside planter strips with street trees. A 6-foot wide public utility easement is proposed adjacent to the property line to allow for overhead and underground utilities.

*12.36, Frontage Improvement Charge.*

*12.36.010 Applicability.*

*Provisions of this chapter shall apply to new development and substantial remodel projects in the neighborhood residential (NR) zone. In accordance with the city's public works design standards, applicable projects may pay the frontage improvement charge (FIC) in lieu of installing full frontage improvements. (Ord. 1870-0415 § 1 (part), 2015)*

*12.36.020 FIC—Base fee.*

*A. A base fee of zero dollars per lineal foot of frontage is established for 2016, for the FIC.*

*B. Effective January 1st of subsequent years, the FIC shall be adjusted based on the October to October change in the Construction Cost Index for the Seattle area as published by Engineering News-Record.*

*C. The base fee will be applied to all eligible projects in conformance with Section 2.100 of the current "city of Shelton design and construction standards." (Ord. 1884-2016 § 1, 2016: Ord. 1870-0415 § 1 (part), 2015)*

**Comment:** The goal of this municipal code provision is to set a base frontage improvement fee that applicable projects in the Neighborhood Residential (NR) zoning district to pay in lieu of constructing street and sidewalk improvements for development in the Neighborhood Residential (NR) zoning district. The fee for the charge was set at zero and no funds were collected by the City. The frontage improvement fee is further discussed in the Engineering Design and Construction Standards section of this presentation.



## **Shelton Municipal Code (continued):**

### **Title 12, Streets and Sidewalks**

#### *12.36.030 Use of FIC funds.*

- A. FIC, once collected, shall be placed in an appropriate deposit account within the capital improvement fund.*
- B. FIC revenues shall be held and disbursed as follows:*
  - 1. FIC revenues shall be used for costs incurred on capital projects for the design or construction of pedestrian and non-motorized improvements, including capitalized repair and maintenance, when such improvements are part of a project identified in the annual six-year transportation improvement program.*
  - 2. Priority for funds shall be given to projects that improve conditions on “critical pedestrian routes” as shown on the current “critical pedestrian route” map included in the “city of Shelton design and construction standards.”*
  - 3. Public works shall prepare an annual report to the council on the FIC showing all sources and amounts of revenue collected and projects for which funds were expended.*

**Comment:** No FIC funds were collected as part of this program.



# **2018 International Fire Code, Appendix D, Fire Apparatus Roads:**

## **Section D101 General**

### *D101.1 Scope*

*Fire apparatus access roads shall be in accordance with this appendix and all other applicable requirements of the International Fire Code.*

**Comment:** The International Fire Code (IFC) is adopted by the City and used by the Building and Fire Departments for the minimum design standards. The goal is that the public street design standards are updated to meet or exceed the International Fire Code Standards.

## **Section D102 Required Access**

### *D102.1 Access and Loading*

*Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing up to 75,000 pounds (34 050 kg).*

**Comment:** The current public street design standards do not meet this standard. Modifications will be needed to the Design and Construction Standards manual discussed later in this document so that all public roadways are constructed with an asphalt or concrete driveway surface with a structural section to support a 75,000-pound emergency vehicle. Note that the IFC street design standards applies to public streets development site interior streets, abutting streets, and offsite streets serving the project site to in any zoning district in the City or UGA.

## **Section D103 Minimum Specifications**

### *D103.1 Access Road Width With a Hydrant*

*Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm), exclusive of shoulders (see Figure D103.1).*

**Comment:** The majority of all public roadways include fire hydrants and need to be a minimum of 26 feet in width per this standard.

### *D103.2 Grade*

Fire apparatus access roads shall not exceed 10 percent in grade.

Exception: Grades steeper than 10 percent as approved by the fire code official.

**Comment:** A maximum street gradient of 10 percent is the current standard in the City 2019 Design and Construction Manual.

## **2018 International Fire Code, Appendix D, Fire Apparatus Roads (continued):**

### *D103.3 Turning Radius*

*The minimum turning radius shall be determined by the fire code official.*

**Comment:** Section 2.010 of the Design and Construction Standards Manual references the State of Washington Roadway Design Manual that meets or exceeds minimum turning radius requirements for emergency vehicles.

### *D103.4 Dead Ends*

*Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) shall be provided with width and turnaround provisions in accordance with Table D103.4.*

**Comment:** The 2019 City Design and Construction Standards Manual currently has a 110-foot cul-de-sac diameter. The new standard will reduce the diameter to 96 feet, per table D103.4 of the IFC. The current City standard does not allow public dead-end streets to terminate in hammerhead turn-arounds due to parking enforcement issues. Temporary hammer-head turnarounds meeting IFC constructed in expanded public rights-of-way may be permitted on streets that will be extended with future development.

**TABLE D103.4**

REQUIREMENTS FOR DEAD-END FIRE APPARATUS ACCESS ROADS

LENGTH (feet)	WIDTH (feet)	TURNAROUNDS REQUIRED
0—150	20	None required
151—500	20	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac in accordance with Figure D103.1
501—750	26	120-foot Hammerhead, 60-foot "Y" or 96-foot diameter cul-de-sac in accordance with Figure D103.1
Over 750	Special approval required	



Cul-de-sac Design



## **2018 International Fire Code, Appendix D, Fire Apparatus Roads (continued):**

### **D103.6 Signs**

#### *D103.6.1 Roads 20 to 26 Feet in Width*

*Fire lane signs as specified in Section D103.6 shall be posted on both sides of fire apparatus access roads that are 20 to 26 feet wide (6096 to 7925 mm).*

#### *D103.6.2 Roads More Than 26 Feet in Width*

*Fire lane signs as specified in Section D103.6 shall be posted on one side of fire apparatus access roads more than 26 feet wide (7925 mm) and less than 32 feet wide (9754 mm).*

**Comment:** The International Fire Code allows on street parking on one side for 26-foot-wide streets and parking on both sides for streets 32 feet in width. The 2019 Design and Construction Standards currently does not properly denote the required street widths that allow for on street parking for various development scenarios.

### **Section D104 Commercial and Industrial Developments**

#### *D104.1 Buildings Exceeding Three Stories or 30 Feet in Height*

*Buildings or facilities exceeding 30 feet (9144 mm) or three stories in height shall have not fewer than two means of fire apparatus access for each structure.*

#### *D104.2 Buildings Exceeding 62,000 Square Feet in Area*

*Buildings or facilities having a gross building area of more than 62,000 square feet (5760 m<sup>2</sup>) shall be provided with two separate and approved fire apparatus access roads.*

*Exception: Projects having a gross building area of up to 124,000 square feet (11 520 m<sup>2</sup>) that have a single approved fire apparatus access road where all buildings are equipped throughout with approved automatic sprinkler systems.*

#### *D104.3 Remoteness*

*Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the lot or area to be served, measured in a straight line between accesses.*

**Comment:** The Fire Marshall will determine the secondary access road requirements during their review of site plans during the development review phase of the project.



## **2018 International Fire Code, Appendix D, Fire Apparatus Roads (continued):**

### **Section D105 Aerial Fire Apparatus Access Roads**

#### *D105.1 Where Required*

*Where the vertical distance between the grade plane and the highest roof surface exceeds 30 feet (9144 mm), approved aerial fire apparatus access roads shall be provided. For purposes of this section, the highest roof surface shall be determined by measurement to the eave of a pitched roof, the intersection of the roof to the exterior wall, or the top of parapet walls, whichever is greater.*

#### *D105.2 Width*

*Aerial fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925 mm), exclusive of shoulders, in the immediate vicinity of the building or portion thereof.*

#### *D105.3 Proximity to Building*

*One or more of the required access routes meeting this condition shall be located not less than 15 feet (4572 mm) and not greater than 30 feet (9144 mm) from the building, and shall be positioned parallel to one entire side of the building. The side of the building on which the aerial fire apparatus access road is positioned shall be approved by the fire code official.*

**Comment:** Most two story homes are greater than 30 feet in height. The public roadway width improvement standards will be modified to meet this minimum requirement. The Fire Marshall reviews site building permit applications for building setback distances.

#### *D105.4 Obstructions*

*Overhead utility and power lines shall not be located over the aerial fire apparatus access road or between the aerial fire apparatus road and the building. Other obstructions shall be permitted to be placed with the approval of the fire code official.*

**Comment:** Utility lines are required to be placed underground from existing poles to new buildings. Undergrounding of existing utility main lines is not required by the City. Newly created streets (such as in a subdivision) are required to place all utilities underground. Building addition, change of use, or building remodeling projects may be required to place the existing utility lines underground, as determined by the Fire Marshal during the building permit review process.

### **Section D106 Multiple-Family Residential Developments**

#### *D106.1 Projects Having More Than 100 Dwelling Units*

*Multiple-family residential projects having more than 100 dwelling units shall be equipped throughout with two separate and approved fire apparatus access roads.*

*Exception: Projects having up to 200 dwelling units shall have not fewer than one approved fire apparatus access road where all buildings, including nonresidential occupancies, are equipped throughout with approved automatic sprinkler systems installed in accordance with Section 903.3.1.1 or 903.3.1.2.*

## **2018 International Fire Code, Appendix D, Fire Apparatus Roads (continued):**

### *D106.2 Projects Having More Than 200 Dwelling Units*

*Multiple-family residential projects having more than 200 dwelling units shall be provided with two separate and approved fire apparatus access roads regardless of whether they are equipped with an approved automatic sprinkler system.*

### *D106.3 Remoteness*

*Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses.*

**Comment:** The Fire Marshall will determine the secondary access road requirements during their review of site plans during the development review phase of the project.

## **Section D107 One- or Two-Family Residential Developments**

### *D107.1 One- or Two-Family Dwelling Residential Developments*

*Developments of one- or two-family dwellings where the number of dwelling units exceeds 30 shall be provided with two separate and approved fire apparatus access roads.*

*Exceptions:*

- 1. Where there are more than 30 dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, access from two directions shall not be required.*
- 2. The number of dwelling units on a single fire apparatus access road shall not be increased unless fire apparatus access roads will connect with future development, as determined by the fire code official.*

### *D107.2 Remoteness*

*Where two fire apparatus access roads are required, they shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between accesses.*

**Comment:** The Fire Marshall will determine the secondary access road requirements during their review of site plans during the development review phase of the project.



## **2019 State Department of Ecology Storm Water Management Manual:**

The City of Shelton Storm Water Phase 2 Permit with the State Department of Ecology requires that storm runoff from newly created impervious surfaces does not exceed pre-development runoff rates, and that storm runoff from roadway surfaces is treated provided prior to entering a conveyance system, such as piping, ditch, streams, or infiltration facilities. The State Department of Ecology Manual includes engineering design criteria and standards to meet specified water quantity and quality control standards.

Runoff from public street impervious surfaces includes provisions for water quantity and quality controls. The street standards revisions include provisions for a vegetated planter strip between the curb and sidewalk to allow for storm water infiltration, detention, and treatment. The roadside planter strip includes various types of vegetation and deciduous street tree plantings to allow for summertime shading of the roadway improvements to lower the water runoff temperature. Street tree leaves capture/evaporate rain and tree roots uptake water and transpiration occurs from the tree surfaces. Mature street trees remove carbon dioxide from the atmosphere and improve the “streetscape”, adding value to nearby properties and to the overall community.

The following street design and construction standard revisions includes provisions for street trees and roadside water quality and quantity facilities.





# 2019 Engineering Design and Construction Standards:

## Chapter 2: Transportation

2.020 Functional Classification: City streets are divided into principal arterials, minor arterials, major collectors, minor collectors, and local access streets in response to regional transportation needs and the functional use each serves. See the Comprehensive Plan Transportation Element for a listing of arterials. Function is the controlling element for classification and shall govern right-of-way, road width, and road geometrics. Streets will be classified or reclassified by the City as deemed necessary. See Table 2.050 Minimum Design Standards (below).

DESIGN STANDARDS <sup>(1)</sup>	PRINCIPAL ARTERIAL	MINOR ARTERIAL	MAJOR COLLECTOR	MINOR COLLECTOR (2)	LOCAL RESIDENTIAL (2)	LOCAL COMMERCIAL	PRIVATE STREET	ALLEY
MINIMUM/MAXIMUM GRADE	0.5%-8.0%	0.5%-8.0%	0.5%-8.0%	0.5%-8.0%	0.5%-10.0%	0.5%-10.0%	0.5%-10.0%	0.5%-10.0%
CURB	Cement concrete curb and gutter	Cement concrete curb and gutter	Cement concrete curb and gutter	Cement concrete curb and gutter	Cement concrete curb and gutter	Cement concrete curb and gutter		N/A
SIDEWALKS	Both sides, minimum 8' width, 10' with zero lot setback	Both sides, minimum 8' width	Both sides, minimum 8' width	Both sides, minimum 6' width	Both sides, minimum 6' in residential zone, 8' in commercial zone	Both sides, minimum 8' in commercial zone, 10' with zero lot line		N/A
CUL-DE-SAC RADIUS (PAVEMENT WIDTH)	N/A	N/A	N/A	N/A	Fire Dept Standards, minimum 55' radius	Fire Dept Standards, minimum 55' radius	Fire Dept standards	N/A
INTERSECTION CURB RADIUS	35 feet, 55 feet on Freight Mobility routes	35 feet, 55 feet on Freight Mobility routes	35 feet, 55 feet on Freight Mobility routes	35 feet, 55 feet on Freight Mobility routes	Not less than 30 feet at edge of travel lane, 25 feet minimum	Not less than 30 feet at edge of travel lane, 25 feet minimum		N/A
DESIGN SPEED (MPH)	With super elevation per AASHTO, Without super elevation 600', maximum super elevation = 6%	With super elevation per AASHTO, Without super elevation 600', maximum super elevation = 6%	150'	150'	100'	100'		N/A

## 2019 Engineering Design and Construction Standards (continued):

2.050 Minimum Street Design Standards, Table 2.050 (continued)

DESIGN STANDARDS <sup>(1)</sup>	PRINCIPAL ARTERIAL	MINOR ARTERIAL	MAJOR COLLECTOR	MINOR COLLECTOR (2)	LOCAL RESIDENTIAL (2)	LOCAL COMMERCIAL	PRIVATE STREET	ALLEY
DESIGN LIMITATIONS	Access should be limited. No on-street parking allowed.	Access should be limited. NO on-street parking allowed.	Access should be limited. On-street parking allowed.	Access should be limited. On-street parking allowed.	On-street parking allowed	On-street parking allowed.		No parking allowed. Loading and unloading allowed.
MINIMUM STRUCTURAL DESIGN	See Development Section 2.190							
MINIMUM RIGHT-OF-WAY	92'-96' See Standard Drawing #T-25, T-26. See Note 1.	69'-73' See Standard Drawing #T-25, T-26. See Note 1.	61'-84'. See Standard Drawing #T-22, T-23, T-24. See Note 1.	61'-84'. See Standard Drawing #T-22, T-23, T-24. See Note 1.	60'-76'. See Standard Drawing #T-20, T-21. See Note 1.	61'-65' 75'-84' See Standard Drawing #T-22, T-23, T-24. See Note 1		20' See Note 1
MINIMUM PAVEMENT WIDTH	48-64 feet, with four travel lanes, median, turning pockets and 5' bike lanes on both sides.	48-60 feet, with 4 travel lanes, one 2-lay turning lane and 5' bike lanes on both sides.	44-48 feet with 4 travel lanes and 5' bike lanes on both sides.	24 feet, with 5' bike lanes on both sides.	24 feet without on-street parking; 40 feet with on-street parking.	40 feet, includes on-street parking.	Fire Department standards	20'
PARKING LANE	None allowed	None allowed	Allowed; 8 foot minimum	Allowed; 8 foot minimum	Allowed; 8 foot minimum	Allow; 8 foot minimum		

(1) Additional right of way may be required to accommodate street tree corridor and bus turnout.

(2) An exception to these standards for in-fill development within the Neighborhood Residential (NR) Zoning District provided in 2.100.A.

**Comment:** Modifications to Table 2.050 to meet the Comprehensive Plan, Development Code, International Fire Code, and State Storm Water Manual standards are shown on page 23.



## **2019 Engineering Design and Construction Standards (continued):**

### **2.100 Street and Alley Frontage Improvements:**

*A. All new construction projects, substantial remodels on existing lots, and all short platting of land within Neighborhood Residential (NR) Zoning District shall complete improvements (as shown in drawing (T-27) or pay a Frontage Improvement Charge (FIC) in conformance with these standards and SMC 12.36 in lieu of the more formal improvements identified in Table 2.050. All projects on the critical pedestrian route (see page 2-20a) shall pay the Frontage Improvement Charge (FIC).*

**Comment:** The frontage improvement charge identified in 12.36.020 of the Municipal Code is currently not assessed (the fee is set at zero) and street improvements are not being completed. Detail T-27 in the design and construction standards manual requires the addition of a nonstructural 12-foot-wide 2-inch thick gravel shoulder in the Neighborhood Residential (NR) zone in lieu paying the FIC. The gravel shoulder does not meet the International Fire Code road standards. The critical pedestrian route map is shown on page 18.

*B. When constructing right-of-way improvement not associated with new development projects, such as the construction of improved driving surfaces, new or upgraded sidewalks/paths, or the installation of new storm water system improvements, it is not necessary that the road system be improved to include all elements that constitute full frontage improvements as required by these Standards. In this instance, constructed improvements shall meet the minimum standard for the element being constructed and ADA standards for accessibility.*

**Comment:** This design standard waives the requirement to construct full street improvements when constructing utility or roadway maintenance improvement projects.

*C. Unless payment of a FIC is an option, street frontage improvements, in conformance with these standards, will be required along all street frontages adjacent to a development. Corner lots are also responsible for improving adjacent street intersections.*

**Comment:** The Frontage Improvement Charge (FIC) methodology does not work as the fee is currently set at zero. Frontage improvements should be required in all zoning districts to meet the Comprehensive Plan, Development Code, and International Fire Code provisions previously discussed.

*D. Minimum improvements, of any development, will require the developer to clear and grade 15' of right-of-way measured from the centerline of the right-of-way irrespective of the location of the existing traveled way.*

**Comment:** This standard does not meet the Comprehensive Plan or the International Fire Code standards and would not be applicable if street and sidewalk improvements are completed adjacent to all proposed developments.

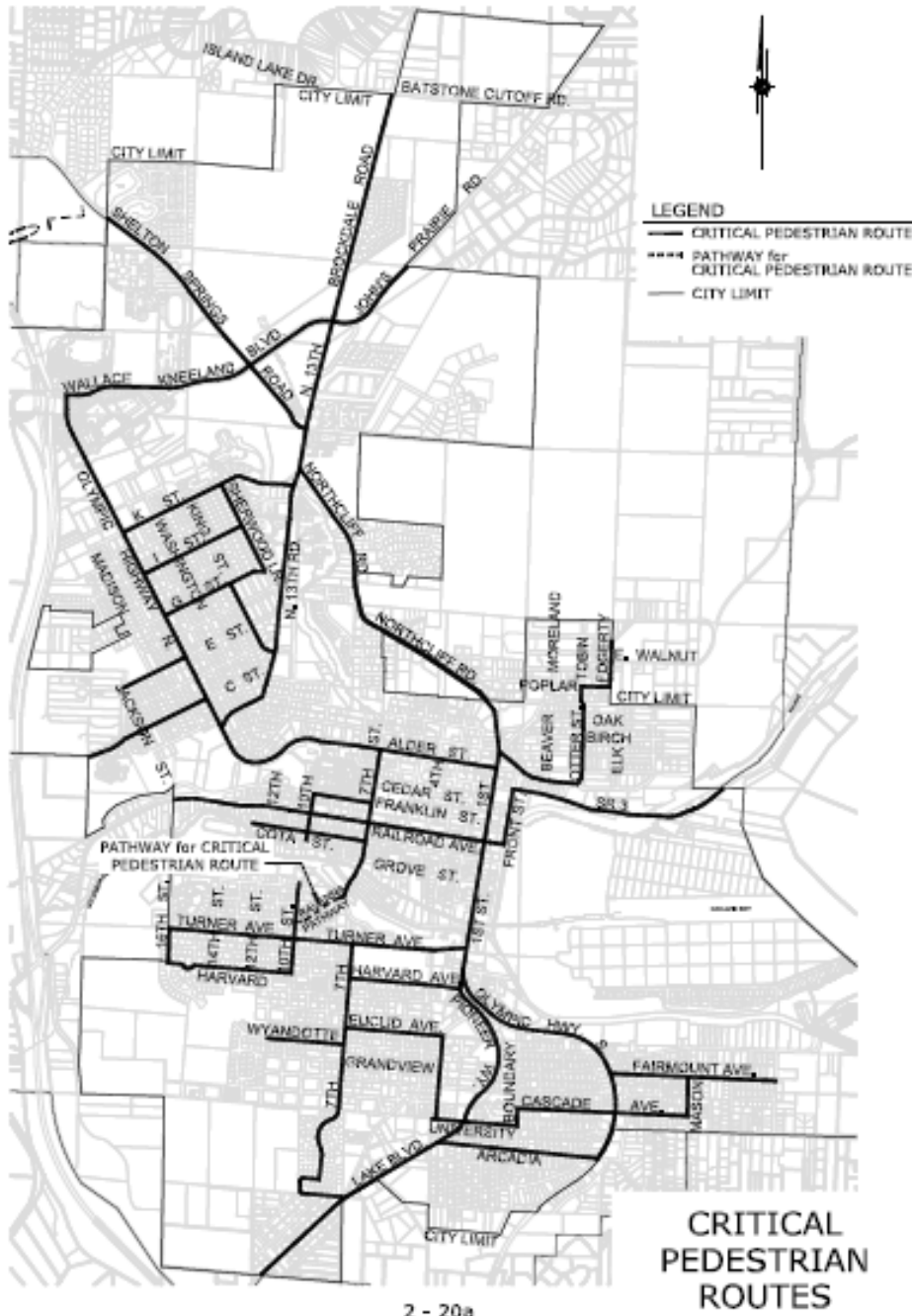
E. Alley frontage improvements will be required along all adjacent development and shall meet the following requirements:

1. Alleys within the residential zones of the city shall be constructed of compacted crushed aggregate for the full width of the alleys.

**Comment:** The International Fire Code requires that all roadways are paved with asphalt or concrete to support a 75,000-pound vehicle. A revised public alley detail meeting the standards is included as standard detail T-27.



## 2019 Engineering Design and Construction Standards (continued):



# 2019 Design and Construction Standards Manual

## Critical Pedestrian Route Map

## **2019 Engineering Design and Construction Standards (continued):**

### **2.100 Street and Alley Frontage Improvements (continued):**

*2. Alleys within the Mixed-Use and Non-Residential zones of the city shall be constructed per section 2.180 of these Standards for the full width of the alleyway.*

**Comment:** Section 2.180 requires a 4 inches of asphalt concrete pavement on an aggregate base rock section. A public alley detail meeting the standards is included as standard detail T-27.

*All plats and re-plats shall install all street and alley frontage improvements at the time designated in the municipal code. Such improvements shall include: curb and gutter; sidewalk; storm drainage; street lighting system; traffic signal modification, relocation, or installation; utility relocation; landscaping and irrigation; and street improvements per Table 2.050; and any other applicable sections of these Standards. Plans shall be prepared and signed by a licensed civil engineer register in the State of Washington.*

**Comment:** There is no reference located to the “time designated in the Municipal Code” for street and alley improvements. The timing for the installation of the improvements is identified in SEPA land use approval, or a part of the right-of-way permit issued by the Engineering Division.

### **2.110 Cul-de-sac**

*In general, the City discourages the use of cul-de-sacs per Section 2.040 of these Standards. Streets designed to have one end permanently closed shall be no longer than 400-feet. At the closed end, there shall be a widened "bulb" having a minimum paved traveled radius as shown in the Minimum Street Design Table.*

**Comment:** The Comprehensive Plan design standards requires extension of streets thru development sites to increase neighbor circulation and reduce trip lengths. The cul-de-sac bulb radius is modified (reduced) in the revised street standards to meet the current International Fire Code standards.

### **2.120 Temporary Dead Ends**

*Where a street is temporarily dead ended, turn-around provisions must be provided where the road extends more than 150 feet. The turnaround may be a hammerhead with a minimum distance on both sides at the centerline intersection of 60 feet to facilitate emergency vehicle turn-around.*

**Comment:** If approved by the City and Fire Marshall, a temporary fire access road turn-around will conform to the dimensions shown in Table D-103.4 of the International Fire Code. The turn-around will be constructed in expanded public right-of-way (not in an easement), and no parking signs installed around the perimeter of the turn around.



## **2019 Engineering Design and Construction Standards (continued):**

### **2.130 Half Street**

*A half street is an otherwise acceptable arterial roadway section modified to conform to limited right-of-way on the boundary of the property subject to development, or when constructing a portion of the road section when less capacity is necessary for adequate levels of service. A half street may be permitted by the Public Works Director when:*

- A. Design of a full street, including phasing of construction, is prepared by a licensed professional civil engineer and submitted for review and approval by the City; and,*
- B. A traffic impact analysis is prepared by a licensed professional traffic engineer and submitted for review and approval by the City that fulfills City guidelines for a traffic impact analysis and which demonstrates that the half street will be safe and of adequate capacity for the use being proposed; and,*
- C. When required, there is written assurance of obtaining the prescribed additional right-of-way from the adjoining property suitable for completion of a full-section roadway; and,*
- D. Such alignment is consistent with or will establish a circulation pattern.*

**Comment:** Half street frontage improvements occur when properties develop adjacent to existing local, collector, or arterial roadway. The development is responsible for the half street improvements per Table 2.050 and right-of-way dedication adjacent to the project site as measured from the centerline of the right-of-way. Additional pavement width may be needed on the non-development side of the street centerline for the roadway to meet the minimum street width standards with parking on the development side per the International Fire Code, and for center turn lane requirements on an arterial road, as discussed further in the next section of this document.



## **Recommended Street Design and Construction Standard Revisions:**

The 2019 City of Shelton Engineering Design and Construction Standards currently do not meet the standards outlined in the 2017 City of Shelton Comprehensive Plan, the 2018 International Fire Code, the low impact development requirements of the City Phase II NPDES Permit (fully implemented standards by March 2024), and the 2019 Storm water Management Manual for Western Washington. The standard revisions apply for all new development, infill, or redevelopment of any property within the City limits and/or the Urban Growth Area (with approval from the County Commission).

Proposed modifications to Table 2.050, Minimum Street Design Standards, of the 2019 Design and Construction Standards are shown on page 23. Notes at the bottom of the table identify the major revisions that were made to the 2019 street standards.

The attached standard detail T-22 denotes the proposed pavement sections and access spacing requirements for the various roadway classifications to support fire apparatus vehicle loads.

The attached standard details T-23A, T-23B, T-24, T-25, T-26, and T-27 denote the street standards for Primary Arterial, Secondary Arterial, Major Collector, Minor Collector, Local Residential, Local Industrial/Commercial, and Alley Roadways.

### **Minimum Offsite Interim Roadway Improvement Standards:**

Per the International Fire Code Section, D102.1 Access and Loading: “Facilities, buildings or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing up to 75,000 pounds.”

Substandard roads in the City and/or UGA (such as gravel roads) that are the primary access to a development, redevelopment, or infill project site, are required to construct offsite street improvements to meet the International Fire Code requirements. The minimum offsite interim roadway improvements consist of 18 feet of asphalt paving, 1-foot-wide gravel shoulders, raising of existing structures, and applicable storm drainage improvements. The roadway structural section is to be constructed per standard detail T-22. Offsite improvements are to be constructed on the centerline of the right-of-way and extend from the development site along the primary access route to the nearest adequately paved roadway, as determined by the City Engineer. Development sites may be required to construct additional offsite roadway improvements as outlined in section 2.060, Traffic Impact Analysis of the Engineering Design and Construction Standards Manual. Paved secondary access roads to development sites may be required by the Fire Marshall, per the International Fire Code requirements.

### **Half Street Improvement Standards:**

Half street roadway improvements and right-of-way dedication adjacent to development site boundaries shall be constructed per the applicable standard street details T-22 through T-27. Additional improvements outside of the half street improvements may be required per the traffic impact analysis, as outlined in section 2.060, of the Design and Construction Standards Manual.

## **Recommended Design and Construction Standard Revisions (continued):**

### **Half Street Improvement Standards (continued):**

On-street parking is required on both sides of all local streets and minor collectors adjacent to all development sites. Half street improvements shall include parking on one side of the street and have a minimum width of 26 feet, per the Uniform Fire Code requirements.

Redevelopment of all sites in the City adjacent to existing public right-of-way(s) shall dedicate the applicable right-of-way and construct new and/or reconstruct existing improvements to conform to adopted design and construction standards applicable to the roadway classification. Existing improvements shall be installed, reconstructed, and/or repaired to meet current standards, including curbs, sidewalks, driveways, street trees, planters, drainage improvements, and the roadway wearing surface and structural section from the right-of-way centerline, as determined and approved by the City Engineer. Site redevelopment is defined as projects where the proposed onsite improvements exceed fifty percent of the existing pre-development assessed value of the property and improvements, and the increase in weekly daily trip generation exceeds 8.0 trips/day per the latest version of the Institute of Traffic Engineers (ITE) Trip Generation Manual.

### **Frontage Improvement Charge:**

References to the frontage improvement charge are removed from the Municipal Code and Engineering Design and Construction Standards Manual.

### **Street Trees:**

Street trees (1-1/2" minimum caliper) are to be installed at an average spacing of 30 feet on-center with a root barrier to reduce the risk of sidewalk heaving along all existing and proposed right-of-way frontage(s). The "as planted" spacing of the trees will vary site by site and is dependent on the variety of the tree and field modifications to the tree spacing due to street lights, water meters, fire-hydrants, driveway approaches, ADA ramps, etc.

### **Sidewalk, Planter Strip, and Street Tree Maintenance:**

The maintenance of right-of-way street trees, sidewalks, and roadway planter strips and/or storm water bio-swales, are the responsibility of the adjacent property owner, including parcels that have multiple right-of-way frontages.



## **Recommended Design and Construction Standard Revisions (continued):**

### Downtown District Street, Sidewalk, and Street Tree Standard Modifications:

The City of Shelton Downtown District boundary is described below, which includes all internal streets and abutting properties:

The properties west of Front Street, south of Cedar Street, east of 7th Street, with the southern limit extending to include properties with frontage on Cota Street between 7th and Front Street.

- A. Downtown District local streets designated in the latest City of Shelton Comprehensive Plan shall be constructed to the local commercial street standards with on street parking both sides. All existing local streets improved with portland cement concrete paving for over 50 percent of the block length shall be reconstructed and/or repaired with portland cement concrete pavement.
- B. Downtown District collector and arterial streets designated in the latest City of Shelton Comprehensive Plan shall be constructed to the applicable collector or arterial street standards with on street parking both sides.
- C. Downtown District sidewalks shall be a minimum of 10 feet in width as measured from the curb line. The sidewalk shall extend from the curb line to the right-of-way for all zero lot line constructed buildings.
- D. Downtown District street trees (1-1/2" minimum caliper) are to be installed at an average spacing of 30 feet on-center with root barrier to reduce the risk of sidewalk heaving along all existing and proposed right-of-way frontage(s). The "as planted" spacing of the trees will vary site by site and is dependent on the variety of the tree and field modifications to the tree spacing due to street lights, water meters, fire-hydrants, door entrances, awnings, ADA ramps, etc. All downtown street trees shall be installed with a metal grate and frame per the current city standard drawing.
- E. The maintenance Downtown District right-of-way street trees, and sidewalks, are the responsibility of the City of Shelton.



# Recommended Design and Construction Standard Revisions (continued):

TABLE 2.050: MINIMUM PUBLIC STREET DESIGN STANDARDS

DESIGN STANDARDS	PRINCIPAL ARTERIAL	MINOR ARTERIAL	MAJOR COLLECTOR	MINOR COLLECTOR	LOCAL RESIDENTIAL	LOCAL INDUSTRIAL or COMMERCIAL	ALLEY
a. Access	Limited, 600' min.	Limited, 300' min.	Limited, 100' min.	Limited, 50' min.	Full	Full	Full
b. Parking	None	None	None	Allowed	Allowed	Allowed	None (loading only)
c. Speed	35-45 mph	35-45 mph	35 mph	25 mph	25 mph	25 mph	10-15 mph
d. Min/Max Grade	0.5% to 8.0%	0.5% to 8.0%	0.5% to 8.0%	0.5% to 10.0%	0.5% to 10.0%	0.5% to 10.0%	0.5% to 10.0%
e. Std. Road Crown Slope	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0% (inverted)
f. Horiz. Curve Radius	Per AASHTO	Per AASHTO	Per AASHTO	200-foot min.	200-foot min.	200-foot min.	Per AASHTO
g. Vertical Curves	Per AASHTO	Per AASHTO	Per AASHTO	Per AASHTO	Per AASHTO	Per AASHTO	Per AASHTO
h. Median Island (w/ street trees)	8 feet	8 feet	8 feet	n/a	n/a	n/a	n/a
i. Left Turn Lane (where needed)	12 feet	12 feet	12 feet	n/a	n/a	n/a	n/a
j. Right Turn Lane (at arterial & collect.)	12 feet	12 feet	12 feet	n/a	n/a	n/a	n/a
k. No. Travel Lanes	(2)	(2)	(2)	(2)	(2)	(2)	(2)
l. On Street Bike Lanes	5.0 feet	5.0 feet	5.0 feet	n/a	n/a	n/a	n/a
m. Multi-use Path (alt. to bike lanes) <sup>3,5</sup>	12.0 feet	12.0 feet	12.0 feet	n/a	n/a	n/a	n/a
n. Curb to Curb Width	46' (w/ bike lanes)	46' (w/ bike lanes)	46' (w/ bike lanes)	36 feet	34 feet	36 feet	20 feet
o. Sidewalk <sup>1,2</sup>	6.0 feet	6.0 feet	6.0 feet	5.0 feet	5.0 feet	5.0 feet	n/a
p. Curb & Gutter	Yes	Yes	Yes	Yes	Yes	Yes	Yes (rolled allowed)
q. Planting Strip/Bio-swale <sup>1</sup>	8.0 feet	8.0 feet	8.0 feet	8.0 feet	8.0 feet	8.0 feet	5.0 feet <sup>4</sup>
r. Right-of-Way Width	74 feet	74 feet	74 feet	64 feet	60 feet	62 feet	30 feet
s. Street Trees <sup>1</sup>	As Specified	As Specified	As Specified	As Specified	As Specified	As Specified	n/a
t. Public Utility Esmt. (when needed for o/h poles, vault lids, & pedestals)	6.0 feet	6.0 feet	6.0 feet	6.0 feet	6.0 feet	6.0 feet	n/a
<sup>1</sup> Maintenance of right-of-way sidewalks, bio-swales, and street trees are the responsibility of the adjacent property owner or Home Owners Association.	<u>2021 Revisions:</u> 1. Removed one thru lane each direction per comp. plan. 2. Added access spacing distance. 3. Added median island std. & turn lanes where needed. 4. Added the multi-use path option in-lieu of bike lanes. 5. Reduced the curb-curb width from 64' to 46'. 6. Reduced sidewalk width from 8' to 6'. 7. Revised the 7.0' tree corridor to 8.0' with bio-swale option. 8. Added street trees to all roads sections per storm permit req'ts.	<u>2021 Revisions:</u> 1. Removed one thru lane each direction per comp. plan. 2. Added access spacing distance. 3. Added median island std. & turn lanes where needed. 4. Added the multi-use path option in-lieu of bike lanes. 5. Reduced the curb-curb width from 60' to 46'. 6. Reduced sidewalk width from 8' to 6'. 7. Revised the 7.0' tree corridor to 8.0' with bio-swale option. 8. Added street trees per storm permit req'ts.	<u>2021 Revisions:</u> 1. Combined (3) standard details into one detail. 2. Added access spacing distance. Removed on-street parking. 3. Added median island std. & turn lanes only where needed. 4. Added the multi-use path option in-lieu of bike lanes. 5. Reduced the curb-curb width from 48' to 46'. 6. Reduced sidewalk width from 8' to 6'. 7. Added street trees per storm permit req'ts.	<u>2021 Revisions:</u> 1. Prepared detail separate from major collector. 2. Added access spacing distance. 3. Removed on street bike lanes to allow width for parking. Install bike lane "sharrows". 4. Reduced the curb-curb width from 40' to 36'. 5. Added an 8.0' bio-swale option in the planter strip. 6. Added street trees per storm permit req'ts.	<u>2021 Revisions:</u> 1. Combined two details. On street parking both sides of street. 2. Reduced street width from 40' to 34'. 3. Reduced sidewalk width from 6' to 5'. 4. Added street trees per storm permit req'ts.	<u>2021 Revisions:</u> 1. Combined two details. On street parking both sides of street. 2. Reduced street width from 40' to 36'. 3. Reduced sidewalk width from 8' to 5'. 4. Added street trees per storm permit req'ts.	<u>2021 Revisions:</u> 1. Added a street section for Alleys. 2. Added bio-swale or planting strip. 3. Added rolled curbs and inverted road crown section 4. Added street trees where feasible, per storm permit req'ts.
<sup>2</sup> Sidewalks shall be a minimum of 10 feet in width adjacent to zero lot line developments in all land use zones.							
<sup>3</sup> The outside travel lanes increase from 12' to 14' when a multi-use path is constructed in lieu of bike lanes.							
<sup>4</sup> Planter and utility corridor.							
<sup>5</sup> Refer to the multi-use path detail and route location map.							

## Questions?

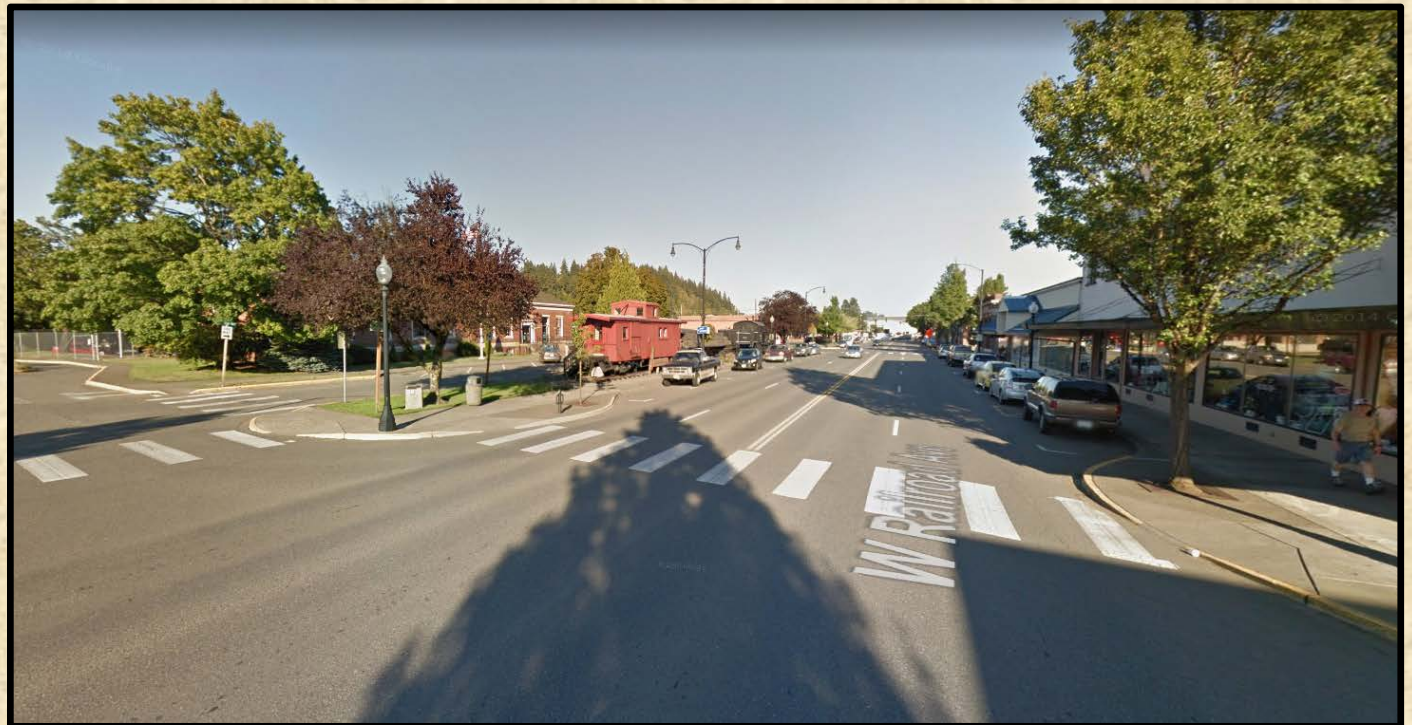
### Next Steps:



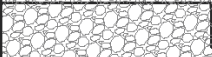

1. **Is Council interested in continuing the discussion to update the street improvement standards?**
2. **If so, are all of the proposed changes acceptable, do some standards need clarification, or is additional information needed?**

Please feel free to call or email me with any additional questions.

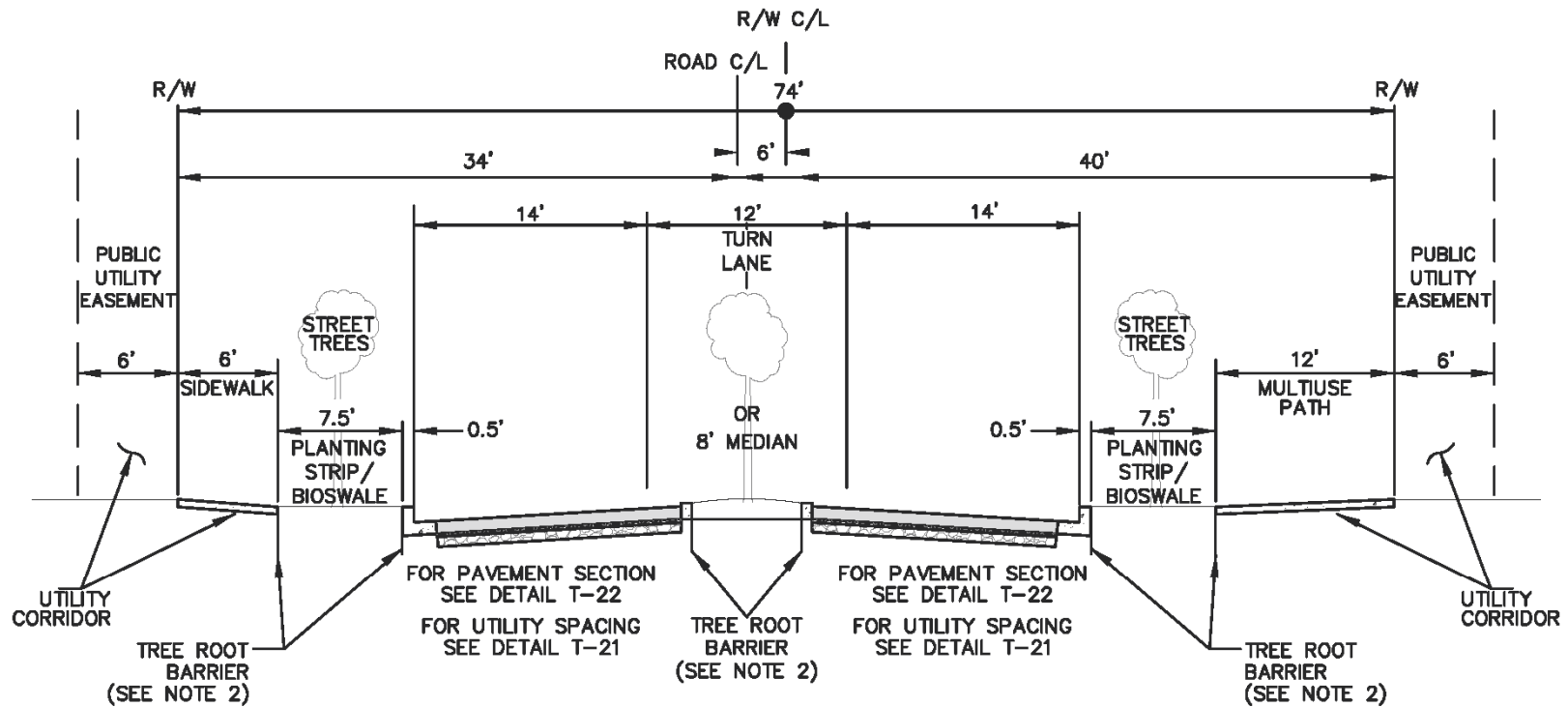
Thank You.

Jay Harris  
City of Shelton  
Public Works Director  
360-432-5125  
[jay.harris@sheltonwa.gov](mailto:jay.harris@sheltonwa.gov)



				PRINCIPAL ARTERIAL		MINOR ARTERIAL		MAJOR COLLECTOR		MINOR COLLECTOR AND LOCAL INDUSTRIAL OR COMMERCIAL		LOCAL RESIDENTIAL AND ALLEY		
	WSDOT SPEC:	COMPACTION:		DEPTH	NO. OF LIFTS	DEPTH	NO. OF LIFTS	DEPTH	NO. OF LIFTS	DEPTH	NO. OF LIFTS	DEPTH	NO. OF LIFTS	
HMA CLASS $\frac{1}{2}$ " PG 64-22:	5-04.3(9)	XX%		6"	3	6"	3	4.5"	2	4.5"	2	3"	1	
CRUSHED SURFACING TOP COURSE:	9-03.9(3)	XX%		2"	1	2"	1	2"	1	2"	1	2"	1	
PARTIALLY CRUSHED BALLAST:	9-03.9(1)	XX%		18"	3	14"	3	14"	3	10"	2	10"	2	
TOTAL DEPTH				26"		22"		20.5"		16.5"		15"		
NOTE: 1. PAVEMENT SECTIONS WILL VARY IF ROADWAY IS A DESIGNATED TRUCK ROUTE. 2. PAVEMENT SECTION SHALL BE PLACED ON COMPACTED SUBGRADE. 3. EXCAVATE STREET TO MINIMAL DEPTH SPECIFIED IN TABLE. CONSTRUCT MATERIAL AS SHOWN BELOW. SITE SOILS AND WEATHER CONDITIONS MAY REQUIRED GREATER STRUCTURAL SECTIONS PER CITY ENGINEER.														
	PRINCIPAL ARTERIAL	MINOR ARTERIAL	MAJOR COLLECTOR	MINOR COLLECTOR	LOCAL RESIDENTIAL	LOCAL INDUSTRIAL OR COMMERCIAL	ALLEY							
ACCESS SPACING:	600'	300'	100'	50'	FULL	FULL	FULL							
AVERAGE DAILY TRAFFIC:	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX							
				City Of Shelton Public Works		PAVEMENT SECTIONS ACCESS SPACING			SCALE: NONE DATE: 10/2020		T-22			





**NOTE:**

1. STREET TREES, SIDEWALK AND PLANTING STRIP/BIOSWALE ARE MAINTAINED BY THE PROPERTY OWNER.
2. TREE ROOT BARRIER REQUIRED ADJACENT TO ANY PAVEMENT OR SIDEWALK. SEE DETAILS M-03 & M-04 FOR ROOT CONTROL BARRIER.
3. FOR ROADWAY AND DRIVEWAY ACCESS SPACING SEE DETAIL T-22.
4. STREET TREES SHALL BE PLACED AS SPECIFIED ON DETAIL T-XX WITH ROOT BARRIERS (NOTE 2).



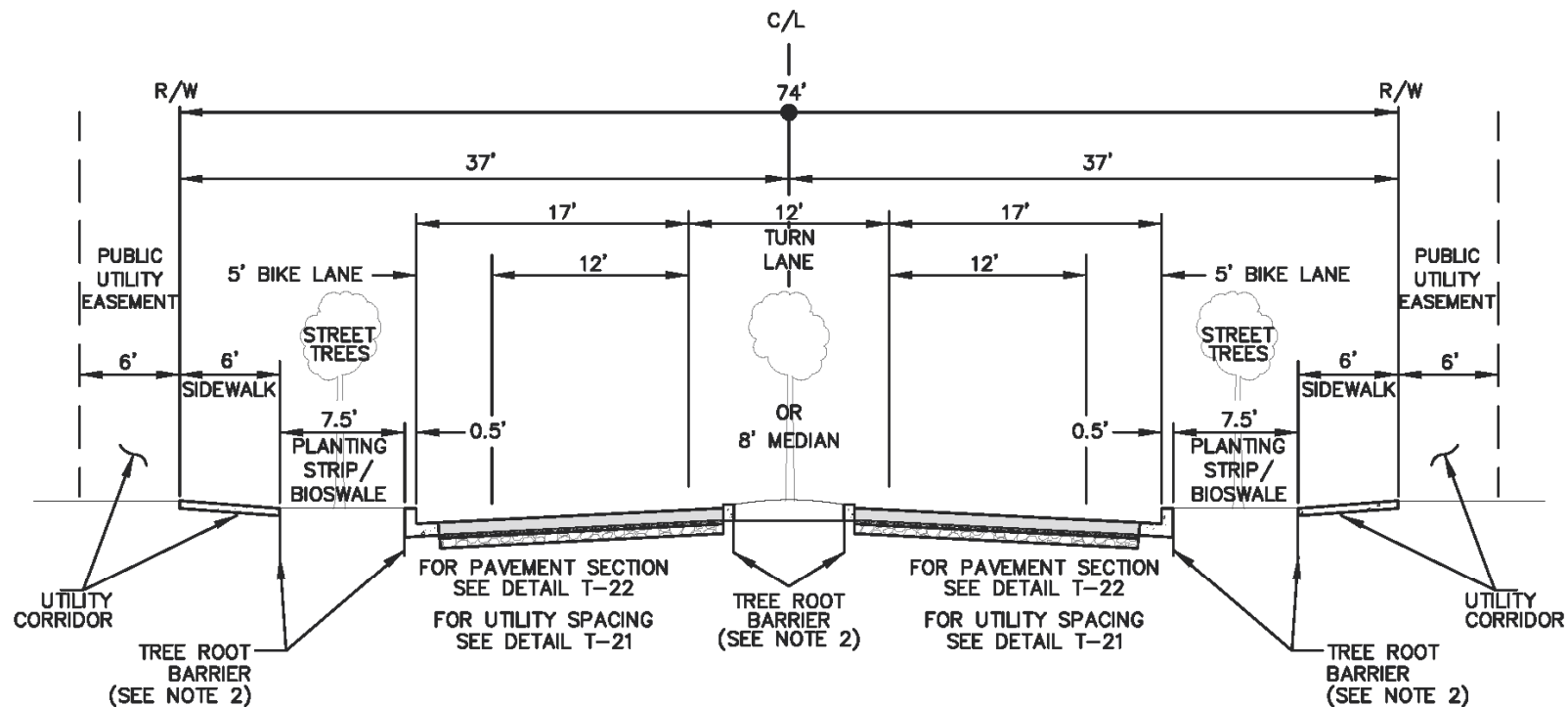
City Of Shelton  
Public Works

**MAJOR COLLECTOR/ARTERIAL  
WITH MULTIUSE PATH**

SCALE: NONE

DATE: 10/2020

**T-23A**



**NOTE:**

1. STREET TREES, SIDEWALK AND PLANTING STRIP/BIOSWALE ARE MAINTAINED BY THE PROPERTY OWNER.
2. TREE ROOT BARRIER REQUIRED ADJACENT TO ANY PAVEMENT OR SIDEWALK. SEE DETAILS M-03 & M-04 FOR ROOT CONTROL BARRIER.
3. FOR ROADWAY AND DRIVEWAY ACCESS SPACING SEE DETAIL T-22.
4. STREET TREES SHALL BE PLACED AS SPECIFIED ON DETAIL T-XX WITH ROOT BARRIERS (NOTE 2).



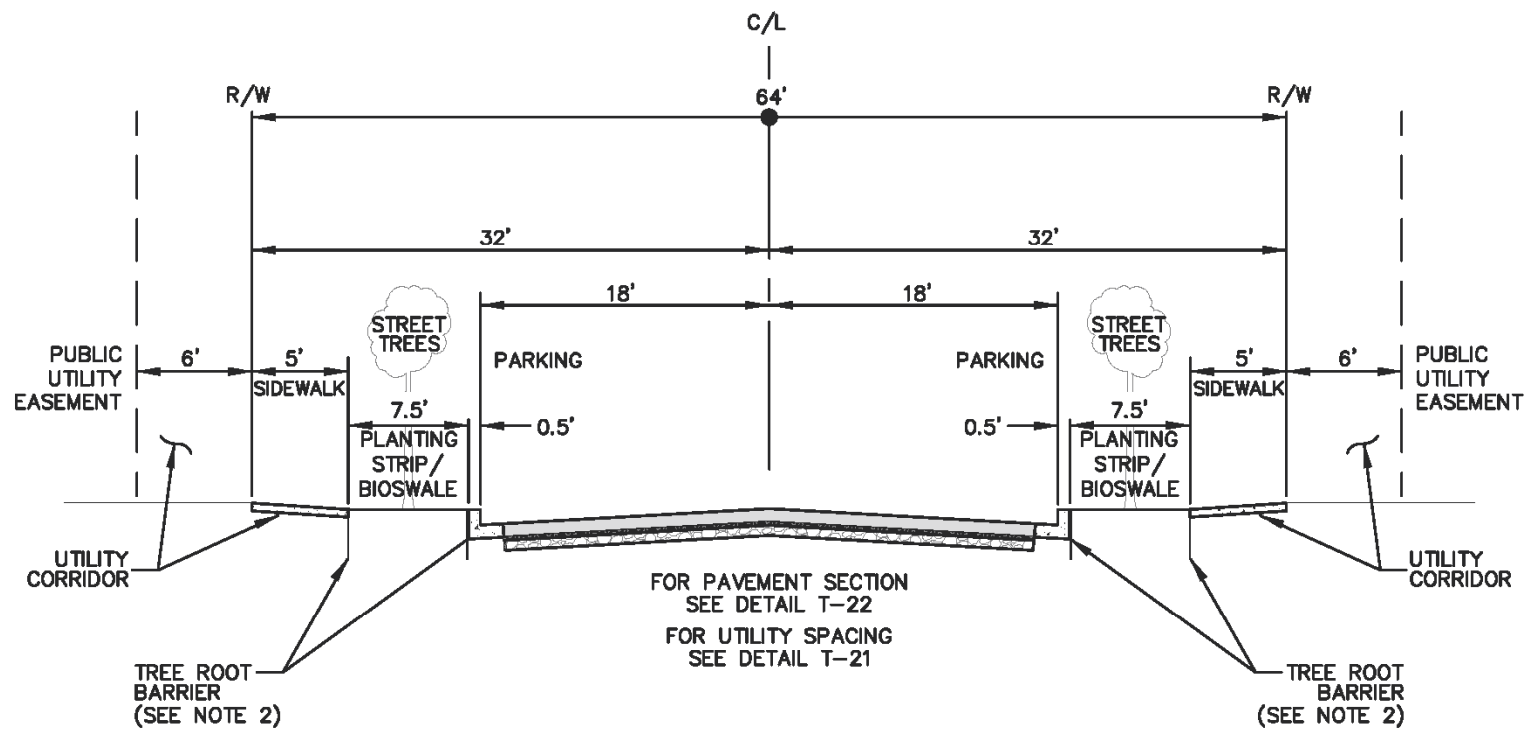
City Of Shelton  
Public Works

**MAJOR COLLECTOR/ARTERIAL  
WITH BIKE LANES**

SCALE: NONE

DATE: 10/2020

**T-23B**



**NOTE:**

1. STREET TREES, SIDEWALK AND PLANTING STRIP/BIOSWALE ARE MAINTAINED BY THE PROPERTY OWNER.
2. TREE ROOT BARRIER REQUIRED ADJACENT TO ANY PAVEMENT OR SIDEWALK. SEE DETAILS M-03 & M-04 FOR ROOT CONTROL BARRIER.
3. FOR ROADWAY AND DRIVEWAY ACCESS SPACING SEE DETAIL T-22.
4. STREET TREES SHALL BE PLACED AS SPECIFIED ON DETAIL T-XX WITH ROOT BARRIERS (NOTE 2).



**City Of Shelton  
Public Works**

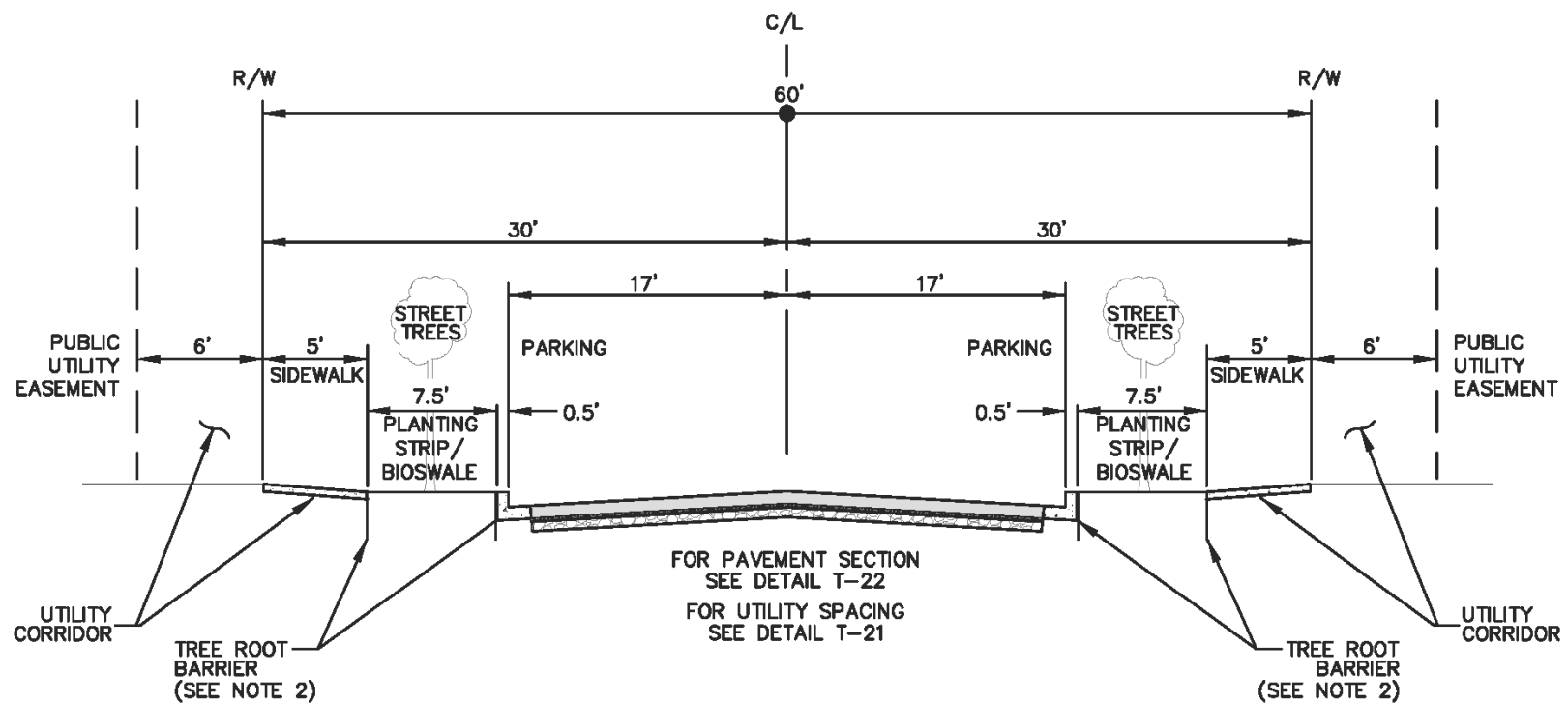
**MINOR COLLECTOR**

**SCALE: NONE**

**DATE: 10/2020**

**T-24**





**NOTE:**

1. STREET TREES, SIDEWALK AND PLANTING STRIP/BIOSWALE ARE MAINTAINED BY THE PROPERTY OWNER.
2. TREE ROOT BARRIER REQUIRED ADJACENT TO ANY PAVEMENT OR SIDEWALK. SEE DETAILS M-03 & M-04 FOR ROOT CONTROL BARRIER.
3. FOR ROADWAY AND DRIVEWAY ACCESS SPACING SEE DETAIL T-22.
4. STREET TREES SHALL BE PLACED AS SPECIFIED ON DETAIL T-XX WITH ROOT BARRIERS (NOTE 2).



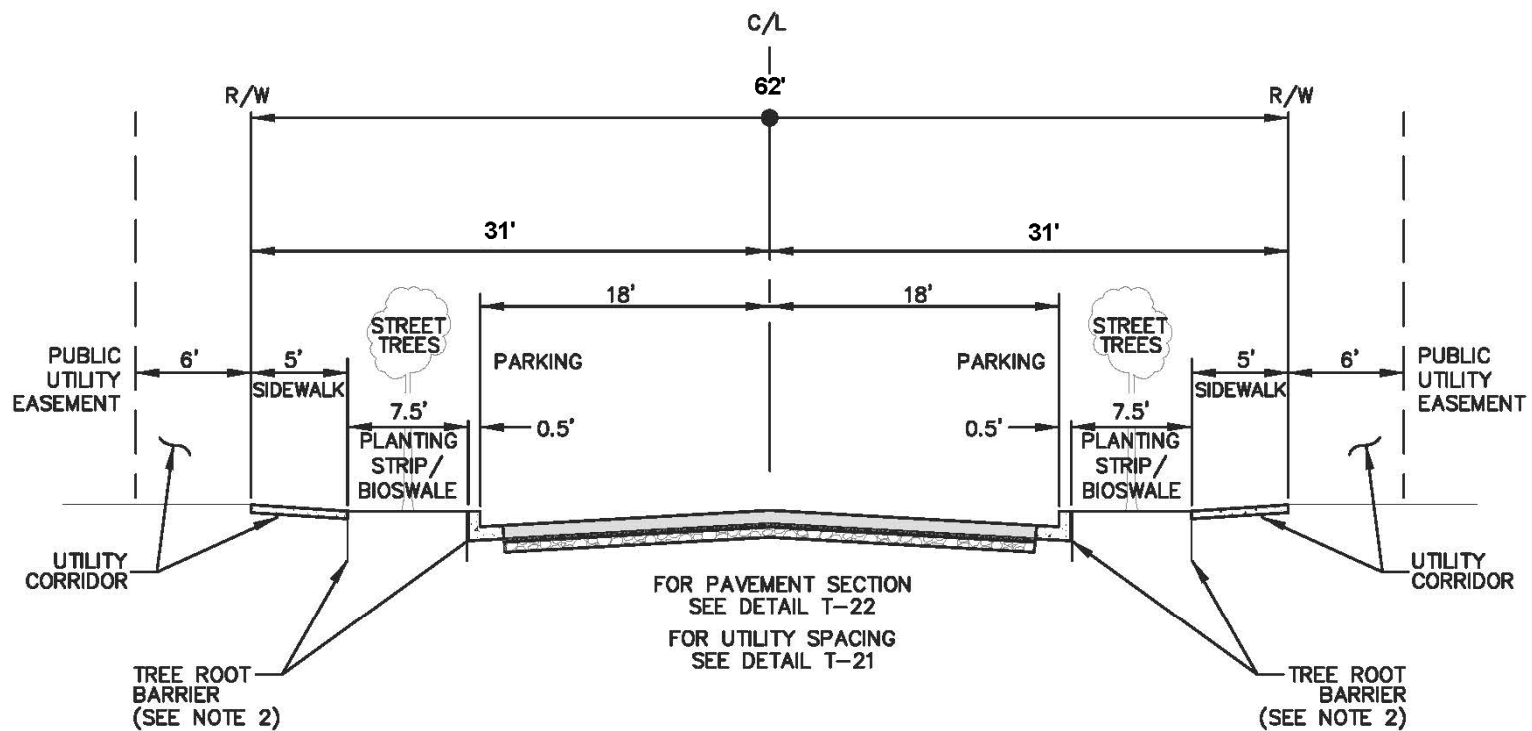
**City Of Shelton  
Public Works**

**LOCAL RESIDENTIAL**

**SCALE: NONE**

**DATE: 10/2020**

**T-25**



**NOTE:**

1. STREET TREES, SIDEWALK AND PLANTING STRIP/BIOSWALE ARE MAINTAINED BY THE PROPERTY OWNER.
2. TREE ROOT BARRIER REQUIRED ADJACENT TO ANY PAVEMENT OR SIDEWALK. SEE DETAILS M-03 & M-04 FOR ROOT CONTROL BARRIER.
3. FOR ROADWAY AND DRIVEWAY ACCESS SPACING SEE DETAIL T-22.
4. STREET TREES SHALL BE PLACED AS SPECIFIED ON DETAIL T-XX WITH ROOT BARRIERS (NOTE 2).



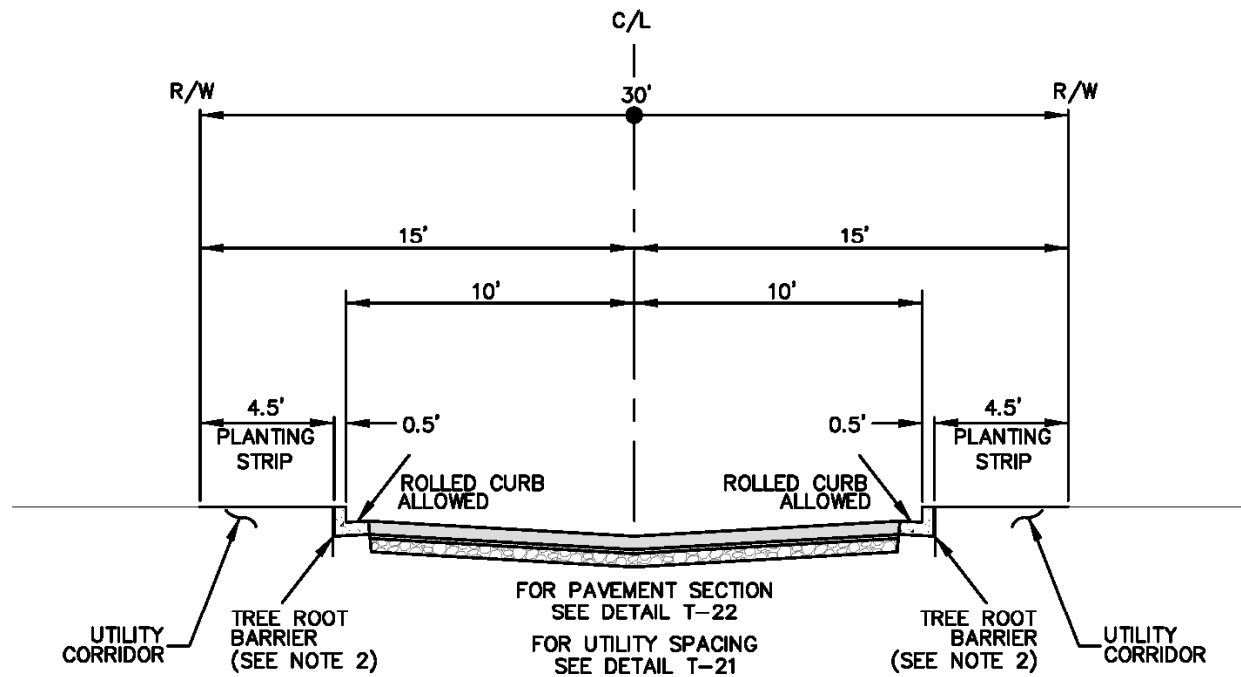
**City Of Shelton  
Public Works**

**LOCAL INDUSTRIAL OR  
COMMERCIAL**

**SCALE: NONE**

**DATE: 10/2020**

**T-26**



**NOTE:**

1. PLANTING STRIPS ARE TO BE MAINTAINED BY THE PROPERTY OWNER.
2. IF STREET TREES ARE INSTALLED, TREE ROOT BARRIER REQUIRED ADJACENT TO ANY PAVEMENT OR SIDEWALK. SEE DETAILS M-03 & M-04 FOR ROOT CONTROL BARRIER.
3. FOR ROADWAY AND DRIVEWAY ACCESS SPACING SEE DETAIL T-22.



**City Of Shelton  
Public Works**

**ALLEY**

**SCALE: NONE**

**DATE: 10/2020**

**T-27**





## CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item F2)

Touch Date: 01/05/2021  
Brief Date: 01/19/2021  
Action Date: 02/02/2021

Department: Finance  
Presented By: Aaron BeMiller

### APPROVED FOR COUNCIL PACKET:

Action Requested:

#### ROUTE TO:

#### REVIEWED:

- |                                     |                  |          |
|-------------------------------------|------------------|----------|
| <input type="checkbox"/>            | Dept. Head       | _____    |
| <input checked="" type="checkbox"/> | Finance Director | 1/7/2021 |
| <input checked="" type="checkbox"/> | Attorney         | 1/7/2021 |
| <input checked="" type="checkbox"/> | City Clerk       | 1/7/2021 |
| <input checked="" type="checkbox"/> | City Manager     | 1/7/2021 |

#### PROGRAM/PROJECT TITLE:

**2020 Supplemental Budget 2**

#### ATTACHMENTS:

**Ordinance No. 1964-0121**

- |                                     |            |
|-------------------------------------|------------|
| <input checked="" type="checkbox"/> | Ordinance  |
| <input type="checkbox"/>            | Resolution |
| <input checked="" type="checkbox"/> | Motion     |
| <input type="checkbox"/>            | Other      |

### DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

The City Council passed Ordinance No. 1941-1019, adopting the City's 2020 Budget on December 3<sup>rd</sup>, 2019 and subsequently passed supplemental budget Ordinance 1950-0320, adjusting the adopted budget on December 15, 2020. This supplemental Ordinance will increase the expenditure authority of two funds (Bond and Sewer) as necessary to record the paying off of old debt from the October 2020 refunding.

### ANALYSIS/OPTIONS/ALTERNATIVES:

### BUDGET/FISCAL INFORMATION:

### PUBLIC INFORMATION REQUIREMENTS:

Information can be obtained from the City Clerk.

### STAFF RECOMMENDATION/MOTION:

"I move that we forward this Ordinance to the February 2nd City Council meeting and place it on the Action Agenda for further consideration."

## ORDINANCE NO. 1964-0121

### AN ORDINANCE OF THE CITY OF SHELTON, WASHINGTON, AMENDING THE ANNUAL BUDGET FOR THE YEAR ENDING DECEMBER 31, 2020

WHEREAS, the Shelton City Council adopted the 2020 budget pursuant to Ordinance No. 1941-1019; and

WHEREAS, the City is prohibited from over expending its appropriated budget as set forth in Ordinance No. 1941-1019; and

WHEREAS, certain revisions to the 2020 budget are now necessary and the City Council finds that the proposed adjustments to the 2020 Adopted Budget are justified;

NOW, THEREFORE, be it ordained by the City Council of the City of Shelton, Washington:

#### Section 1.

The adjustments as provided in this Ordinance to amend the 2020 Annual Budget of the City of Shelton, Washington, are hereby adopted. In summary form, the appropriation adjustments for each separate fund and the aggregate totals for all such funds combined is presented in the table below. Exhibit A, attached to this Ordinance, provides additional information on the adjustments.

Fund	2020 Adopted Budget	2020 Adjustment	2020 Revised Budget
General Fund	\$ 12,290,690	\$ -	\$ 12,290,690
Street Fund	2,280,650	-	2,280,650
Capital Resources Fund	-	-	-
Tourism Fund	81,180	-	81,180
Bond Fund	184,490	3,539,360	3,723,850
Capital Improvement Fund	2,138,630	-	2,138,630
Water Fund	3,720,740	-	3,720,740
Sewer Fund	6,017,330	-	6,017,330
Solid Waste Fund	1,459,020	-	1,459,020
Storm Drainage Fund	1,275,710	6,410,800	7,686,510
Payroll Benefits Fund	219,200	-	219,200
Equipment Maint & Rental Fund	863,720	-	863,720
Firefighters Pension Fund	98,570	-	98,570
Library Endowment Fund	-	-	-
<b>Total Expenditure Budget</b>	<b>\$ 30,629,930</b>	<b>\$ 9,950,160</b>	<b>\$ 40,580,090</b>

#### Section 2.

This shall take effect five days after its approval and publication as required by law.

INTRODUCED the 19<sup>th</sup> day of January 2021.

ADOPTED by the City Council of the City of Shelton, Mason County, Washington at a regular open public meeting held the 2<sup>nd</sup> day of February 2021.

Passed this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Kevin Dorcy, Mayor

AUTHENTICATED:

\_\_\_\_\_  
Donna Nault, City Clerk



**Exhibit A**  
City of Shelton  
Ordinance No. 1964-0121

In October the City refunded seven separate debt instruments into a single General Obligation bond. The refunding generated a savings to the City of over \$3 million and shortened the final maturity date of the debt from 2052 to 2047. Accounting rules provide that the City run the payoff amounts, principal and interest, of the refunded debt through our books. The amounts below provide the necessary budget authority for the debt payoff. The resource for paying off the refunded debt is bond proceeds.

<b><u>Bond Fund</u></b>	<b><u>\$3,539,360</u></b>
-------------------------	---------------------------

Increases budget authority for the payoff of the 2011 Series A & B Fire Station GO bonds.

<b><u>Sewer Fund</u></b>	<b><u>\$6,410,800</u></b>
--------------------------	---------------------------

Increases budget authority to pay off four loans from the State Department of Ecology (2008 WWTP Improvements A, 2010 Goldsborough Creek Sewer Improvements B, 2011 Basin 5 Sewer Rehab Design, and 2012 Basin 3 Sewer Rehab Design) and the 2012 A WWTP Revenue and Refunding Bond.



## CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item F3)

Touch Date: 11/02/2020  
Brief Date: 01/19/2021  
Action Date: 02/02/2021

Department: Public Works  
Presented By: Jay Harris

### APPROVED FOR COUNCIL PACKET:

#### ROUTE TO:

- ☒ Dept. Head
- ☐ Finance Director
- ☐ Attorney
- ☒ City Clerk
- ☐ City Manager

#### REVIEWED:

JOH  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### PROGRAM/PROJECT TITLE:

Res. No. 1183-1120 On-Call Qualified  
Pool List Contracts

#### ATTACHMENTS:

- Res. No 1183-1120
- Request for Qualifications (RFQ)
- Statement of Criteria Applied for Scoring
- List of Pools and Selected Firms
- Example Contract

#### Action Requested:

- ☐ Ordinance
- ☒ Resolution
- ☒ Motion
- ☐ Other

### DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

Due to limited staff, occasionally throughout the year there is a need to supplement City staff in order to complete designs, feasibility studies, traffic studies, and other engineering and specialized services. The uniform requirements of RCW 39.80 need to be followed when procuring professional architecture and engineering (A&E) contracts, regardless of the anticipated contract dollar amount. Unlike other types of contracts which are awarded to the lowest responsible bidder, A&E contracts are awarded primarily based on qualifications, known as qualification-based selection (QBS). Due to the lengthy, time consuming process to acquire A&E services, City staff has chosen to develop a qualified pool of consultants for twelve different categories of work. Once the category pools are established, work can be assigned to a consultant via task order, rather than completing the full A&E process for each time a need arises. During October and November, staff solicited proposals from consulting firms interested in providing on-call services to the City. Eighteen firms submitted proposals in response to the RFQ (Request for Qualifications), many of them submitting for multiple categories of work. Using the Statement of Applied Criteria, staff evaluated 56 separate proposals overall. After the evaluations were complete, the scores were tallied and averaged for each submittal and only the top three (or four, in cases where there was a tie) firms per category of work, which achieved an average score of 85 or higher, will be offered to enter into contract negotiations with the City.

Once a firm is under contract, work will be assigned by Task Orders, prepared and issued for each distinct project. Task Orders will only be assigned as budget allows, and will be fully executed by the appropriate City signing authority.

### ANALYSIS/OPTIONS/ALTERNATIVES:

The Council has the option to reject the contracts and rely on staff, or when needed, have staff follow the formal RFQ process for any A&E professional services that may be needed. This option is not recommended as the current staff level and workload has the potential to create a situation where staff may not be able to respond in as timely a manner as desired to multiple smaller projects. This would be further complicated by not having an on-call contract in place, as the process to prepare, advertise, review, and then award a contract can take several weeks to months. With this on-call contract pool in place, staff can quickly secure A&E services assistance within as little as 48 hours to one week, to support the City's needs.

BUDGET/FISCAL INFORMATION:

There is no immediate impact to the budget as the contracts are structured to not guarantee a minimum level of work or compensation. With this provision, only A&E services anticipated in the current budget, or those approved through modification of the budget, would be supported by these contracts. Task Orders issued for assignments that exceed the City Manager's signing authority of \$30,000 will be brought to Council for consideration.

PUBLIC INFORMATION REQUIREMENTS:

Information for this can be obtained through the Public Works Department.

STAFF RECOMMENDATION/MOTION:

Staff recommends the following motion: *"I move to forward Resolution Number 1183-1120 to the Action Agenda for the February 2<sup>nd</sup> Council meeting".*



**RESOLUTION NO. 1183-1120**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SHELTON, WASHINGTON, AUTHORIZING THE CITY MANAGER TO ENTER INTO ARCHITECTURE AND ENGINEERING SERVICES AGREEMENTS WITH MULTIPLE CONSULTANTS FOR THE ON-CALL QUALIFIED POOL LIST**

**WHEREAS**, the City has determined the need to have several category pools of architecture and engineering services consultants available on an on-call, as needed basis; and

**WHEREAS**, the City solicited proposals from consulting firms interested in providing on-call services to the City; and

**WHEREAS**, eighteen firms submitted 56 proposals in response to the solicitation, many of the firms proposing for multiple categories of work; and

**WHEREAS**, a panel of staff evaluated and scored all 56 proposals; and

**WHEREAS**, staff determined the firms that scored an average of 85 or above were the most qualified; and

**WHEREAS**, staff further narrowed each category pool by accepting the top three or four scoring firms; and

**WHEREAS**, thirteen firms will be offered a Contract to perform services in eleven different categories of work; and

**WHEREAS**, the Contracts do not guarantee a minimum level of work or compensation; and

**WHEREAS**, Task Order assignments will only be issued for services that are anticipated in the current budget, or those approved through modification of the budget.

**THEREFORE, BE IT RESOLVED** by the City Council of the City of Shelton that the City Manager is authorized to sign Contracts for architecture and engineering services with the consultant firms on the On-Call Qualified Pool list, attached as Exhibit A to this Resolution.

Passed by the City Council at its regular meeting held on the 2<sup>nd</sup> day of February, 2021.

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Mayor Dorcy

ATTEST:

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City Clerk Nault

**CITY OF SHELTON—PUBLIC WORKS  
INVITATIONS TO SUBMIT STATEMENT OF QUALIFICATIONS  
ON-CALL QUALIFIED POOL LIST**

The City of Shelton, Washington is accepting Statements of Qualifications (SOQs) from qualified engineering consulting firms to provide a variety of municipal services, via the **On-Call Qualified Pool List**. These services are intended to complement and augment capabilities that are otherwise unavailable to the City.

The following content is provided in this Request for Qualifications (RFQ) to assist statement preparation.

**SECTION 1. GENERAL INFORMATION**

- 1.01 Request and Proposal
- 1.02 Schedule
- 1.03 Inquiries
- 1.04 Submitting Proposals
- 1.05 Proposal Withdrawal
- 1.06 Rejection or Acceptance of Proposals
- 1.07 Proposing for Multiple Categories of Work
- 1.08 Multiple Awards, Contract Term, and Re-Qualification
- 1.09 Public Records
- 1.10 Recycled Products Statement
- 1.11 Confirmation of Business Organization
- 1.12 Federal, state, and Local Requirements

**SECTION 2. SCOPE OF WORK**

- 2.01 General
- 2.02 Category Specific Scopes of Work
- 2.03 Assignments of Work

**SECTION 3. PROPOSAL REQUIREMENTS AND EVALUATION**

- 3.01 Proposal Submittal
- 3.02 Incurred Costs
- 3.03 Content of Proposals and Evaluation Criteria

**APPENDIX A CONFIRMATION OF BUSINESS ORGANIZATION FORM**

**APPENDIX B PROPOSED PROJECTS FOR NEXT FIVE YEARS**

## SECTION 1. GENERAL INFORMATION:

### 1.01 Request and Proposal

Three unbound hard copies and one digital copy of the written materials in response to this Request for Qualifications (RFQ) must be submitted no later than the due date of **2:00 p.m. local time on Tuesday, November 17, 2020**, to Brooke Kilts, Public Works Administrative Manager.

Proposers responding to this qualifications request must follow the directions stated within this RFQ. Adherence to these rules will ensure a fair and objective analysis of the qualifications. Proposals should be prepared simply and economically. Special bindings, colored displays, promotional materials, etc., are not necessary. Emphasis should be on completeness, brevity, and clarity of the content.

Provide a clear and concise description of your firm's capabilities to meet the RFQ requirements. Proposers must demonstrate prior experience in this type of work within the last five (5) years. All responses must be made in the format outlined in Section 3. Failure to comply with or complete any part of this request may result in the rejection of your proposal.

The City will select consultants through a Qualifications Based Selection ("QBS") procedure in accordance with RCW 39.80.

### 1.02 Schedule

Advertisement	October 22, 2020
Proposal Due	November 17, 2020, 2:00 pm
Council Approval of On-Call Pool List	*January 5, 2021

\*These dates are approximate and subject to change

### 1.03 Inquires

Inquiries regarding this RFQ can be directed to the Public Works Administrative Manager, Brooke Kilts, via email to [brooke.kilts@sheltonwa.gov](mailto:brooke.kilts@sheltonwa.gov). In your email subject line, reference 'On-Call Qualified Pool List'. ***Response to inquiries cannot be guaranteed unless received by email prior to 2:00 p.m., Monday, November 9, 2020.*** No oral responses to questions by City personnel about the RFQ will be binding on the City. All written answers to questions received prior to the deadline will be posted by end of business day on November 10, 2020 to the City of Shelton website located at:

[https://www.sheltonwa.gov/business\\_development/rfp\\_and\\_bid\\_opportunities.php](https://www.sheltonwa.gov/business_development/rfp_and_bid_opportunities.php)

The City reserves the discretion to group similar questions to provide a single answer or not to respond when the requested information is confidential.

### 1.04 Submitting Proposals

Three (3) hard copy unbound proposals and one (1) digital copy of the complete Statement of Qualifications are due to the City of Shelton, Washington, Department of Public Works Office prior to the date and time stated in the Schedule. Submittals that are late, incomplete, or



misdirected will be considered non-responsive, with no exceptions. The City of Shelton relies on the City's own computer system clock to determine the correct time and is not responsible for any delays or difficulties experienced in the submittal of a Proposal. Proposals may be hand-delivered or mailed. *Fax and email submissions WILL NOT be accepted and will be considered non-responsive to this RFQ.*

Three (3) hard copies and one (1) digital copy of the proposal must be submitted in a sealed envelope, clearly marked as follows:

City of Shelton  
Attention: Brooke Kilts, Public Works Administrative Manager  
Subject: **On-Call Qualified Pool List**  
525 West Cota Street  
Shelton, WA 98584

Failure to clearly identify the Proposal may cause misrouting of the Proposal and late delivery, resulting in disqualification.

#### **1.05 Proposal Withdrawal**

Any proposal may be withdrawn at any time before the "Proposal Due" date and time specified in **Section 1.02 Schedule**, by providing a written request for the withdrawal of the proposal to the City. A duly authorized representative of the firm shall execute the request. Withdrawal of a proposal will not prejudice the right of the proposer to file a new proposal on this or future projects.

#### **1.06 Rejection or Acceptance of Proposals**

The City expressly reserves the following rights to:

- a. Disregard any or all irregularities in the proposals.
- b. Reject any or all of the proposals or portions thereof.
- c. Base award with due regard to quality and timeliness of services, experience, compliance with the RFQ, and other factors as may be necessary under such circumstances.
- d. Reject all proposals and re-advertise at the City's sole discretion.

#### **1.07 Proposing for Multiple Categories of work**

The City seeks prime consultants for each Category. The City is not seeking comprehensive teams or prime/sub combinations. Proposers may respond to one or more Categories. If responding to multiple Categories:

- A single proposal may be provided
- The total number of pages for the proposal should not exceed five (5) pages. An additional page can be added for each additional category proposed on.
- Complete your proposal as specified in Section 3.

### **1.08 Multiple Awards, Contract Term, and Re-Qualification**

The City intends to award multiple contracts as a result of this RFQ. We aim to develop a qualified pool of consultants for each category of work; awarding no more than five (5) contracts for each category.

An initial Contract Term of two (2) years will be offered, with two optional one-year extensions upon written agreement.

In December of each contract year, firms currently on the qualified pool list will be asked to re-qualify by submitting new qualifications under this RFQ. The City can choose to terminate qualified pool(s) at any time. The City makes no guarantee as to the size or frequency of task orders assigned under awarded contracts.

The City reserves the right to terminate the contract and/or remove any Consultant not meeting the specifications of the RFQ from the qualified pool.

### **1.09 Public Records**

Any material submitted by the proposer shall become the property of the City unless otherwise specified. During the evaluation of proposals and the selection of the Consultant, the proposals shall be confidential. After the selection process has been completed, the proposals shall be open to public inspection. Proposals should not contain any information that the proposers do not wish to become public. If it is necessary to submit confidential information in order to comply with the terms and conditions of this RFQ, each page containing confidential information should be clearly marked, "NOT FOR PUBLIC DISCLOSURE CONFIDENTIAL TRADE SECRETS". The City accepts no liability for the inadvertent or unavoidable release of any confidential information submitted, and claims arising out of any public record request for such information shall be at the proposer's expense.

### **1.10 Recycled Products Statement**

Proposers shall use recyclable products to the maximum extent economically feasible in the preparation of the proposals, and the selected proposer shall continue the same practice in the performance of the contract work.

### **1.11 Confirmation of Business Organization**

The proposer shall identify the business organization under which it operates (form provided in RFQ as Appendix A). Partnerships and joint ventures will list each member's name, address, business license, tax ID, telephone and fax numbers on a separate sheet of paper attached to the proposal. This page will not be included in your total page count. Failure to complete and include this form in your submittal may be considered non-responsive.

### **1.12 Federal, State, and Local Requirements**

The selected proposer shall comply with all Federal, State, and local laws, regulations, executive orders, and ordinances applicable to the work under this contract. In addition, the proposer agrees to comply with:

- a. Title VI of the Civil Rights Act of 1964;
- b. Section V of the Rehabilitation Act of 1973;
- c. The American with Disabilities Act of 1990
- d. All regulations and administrative rules established pursuant to the foregoing laws; and
- e. All other applicable requirements of Federal and State civil rights and rehabilitation statutes, rules, and regulations.

The City of Shelton hereby notifies that it will affirmatively ensure that in any agreement entered into pursuant to this invitation, minority business enterprises will be afforded full opportunity to submit a statement of qualifications in response to this invitation and will not be discriminated against on the grounds of race, color, sex, religion, or national origin in consideration for an award.

The City of Shelton is an Equal Opportunity Employer and does not discriminate against any person, firm partnership, or organization as it pertains to race, color, religion, sex, age, national origin, marital status, sexual orientation, medical condition, physical handicap or disability. Any person, firm, partnership, or organization contracting with or doing business with the City shall be in conformity with the City's policy on non-discrimination.

## **SECTION 2. SCOPE OF WORK:**

The City has ongoing needs for professional services. These needs include emergencies, development projects, repairs, renovations, new construction projects, and supplemental internal staffing. The City aims to establish a pool of on-call consultants from which to draw as these needs arise.

Consultant shall provide engineering and/or architectural services to the City of Shelton on an on-call basis. The general scope of services needed by the City of Shelton typically fall into the following categories:

- Water and Wastewater Treatment
- Stormwater and Wastewater Systems and Conveyance
- Water System Conveyance, Pumping, and Storage
- Geotechnical and Geological
- Environmental Studies and Design
- Materials Testing
- Landscape Architecture
- Survey and Mapping
- Street and Roadway Engineering



- Traffic Engineering
- Architectural Engineering and Design
- System Master Planning

While we expect to utilize the pool for many of our engineering, architectural, and planning needs, the City reserves the right to select consultants outside of the pool via MRSC Small Works/Consultant Roster, formal RFQ, current Contracted Consultants, and/or perform work with City staff, as determined by and in the best interest of the City.

## **2.01 General**

The Consultant will provide one or more of the Category of services shown in 2.02 below. The City seeks prime consultants for each Category. The City is not seeking comprehensive teams or prime/sub combinations. The work may include provision of preliminary engineering, final design, budgeting, construction estimating, creating schedules, public involvement planning and facilitation, land use planning, construction engineering, construction inspection, contract bid documents, survey, testing, or any combination of these services.

Some tasks will require licensed professionals, such as Professional Engineer or Registered Architect. When required by the City, the selected Consultant shall provide proof of such license or registration to practice in the State of Washington.

## **2.02 Category Specific Scopes of Work**

### **5.02.1 Water and Wastewater Treatment**

May include: review, analysis, feasibility, and/or design of existing or new City water and wastewater treatment, as well as water reclamation processes and facilities.

### **5.02.2 Stormwater and Wastewater Systems & Conveyance**

May include: review, analysis, Inflow & Infiltration Study, feasibility, planning, and/or design of existing or new City collection and conveyance systems.

### **5.02.3 Water System Conveyance, Pumping, and Storage**

May include: review, analysis, feasibility, planning, and/or design of existing or new City infrastructure and systems.

### **5.02.4 Geotechnical and Geological Engineering**

May include: investigation of subsurface conditions and materials, monitoring of site conditions, earthwork, and foundation construction, evaluation and assessment of site conditions, and/or prediction, prevention, and mitigation of potential damage caused by natural hazards.

### **5.02.5 Environmental Studies and Design**

May include: modeling, lab and field studies in order to design, plan, and implement measures to prevent, control, or remediate environmental hazards within the City.

#### **5.02.6 Materials Testing**

Materials testing services on Public Works Projects may include, but not limited to: Field Density testing, HMA compaction, HMA compliance testing, concrete compliance testing, concrete strength testing, and acceptance sampling.

#### **5.02.7 Landscape Architecture**

May include: consultation and/or design of landscape plans, plant selection type, and irrigation design for City projects or within the City Right of Way.

#### **5.02.8 Survey and Mapping**

May include: review, analysis, and/or creating legal descriptions, easements, topographic and ALTA surveys, filing records of survey, lot line adjustment surveys, and construction staking.

#### **5.02.9 Transportation Engineering**

May include engineering and design services related to or for the construction of: roadways, pedestrian and bikeway facilities, drainage, water, and sewer facilities, traffic signals, landscaping and irrigation systems, intelligent transportation systems, street lighting, and other related facilities within the road rights-of-way or easements.

#### **5.02.10 Traffic Engineering**

May include engineering and design services related to or for the construction of: pedestrian and bikeway facilities, traffic signals, intelligent transportation systems, street lighting, signing and pavement marking and other related facilities within the road Right of Way or easements. May include traffic analysis evaluations.

#### **5.02.11 Architectural Engineering and Design**

May include: review, analysis, and/or design of existing or proposed City facilities such as buildings, parking lots, sewer lift stations, park structures, etc.

#### **5.02.12 System Master Planning**

May include: modeling, data collection, planning, analysis, and cost estimating of existing or proposed City transportation, water, sanitary sewer, or storm drainage systems. The City is in the process of completing updates to the Water Comprehensive Plan and the Wastewater Comprehensive Plan. The City has interest in developing future ADA/Pedestrian/Bike Improvement Plan and a Stormwater Comprehensive Plan, as determined in future budget cycles.

### **2.03 Assignment of Work**

Pricing information will not be considered when evaluating consultants for contracts through this initial RFQ process. Once the Qualified Pool List is established and Contracts are executed with the selected consultants, Task Orders may be assigned.

When determining which Consultant from a Category Pool will be assigned a Task Order, the following criteria will be considered:

- Experience and qualifications for the work;
- Responsiveness, availability, and capacity;
- Ability to meet schedule;
- Staff experience, unique knowledge, specialized expertise, and qualifications;
- Customer Service;
- Quality of work;
- Approach to the work.

The City may select Consultants for an assignment through a competitive process, such as a Request for Proposals from one, several, or all Consultants on the Category Pool.

Some tasks will require negotiation between the City and Consultant. City reserves the right to cease negotiations and begin negotiations with another qualified Consultant, in the event negotiations are not successful.

### **Section 3. Proposal Requirements and Evaluation:**

#### **3.01 Proposal Submittal**

To receive consideration, submit proposals in accordance with the following instructions:

**Proposals should be prepared simply and economically, providing a straightforward, concise description of proposer's capabilities to satisfy the requirements of the RFQ. Emphasis should be on completeness and clarity of the content.**

The City, at its sole discretion, has the right to negotiate with any or all proposers regarding their proposals. Additionally, the City may reject or accept any or all proposals or parts thereof, submitted in response to this RFQ.

The City recognizes that in the submittal of proposals, certain information is proprietary to the proposer and that the safeguarding of this information is necessary. Accordingly, the City will make every effort to prevent any disclosure of data supplied by any proposer where the proposer identifies those portion of its proposal that are proprietary. See **Section 1.09, Public Records**.

The proposal is due by the date and time indicated in Section 1.01. Proposals submitted after this time will not be accepted. See Section 1.04 for more information on the proposal submission.

#### **3.02 Incurred Costs**

The City is not liable for any costs incurred by proposers in the preparation and/or presentation of their proposals.



### 3.03 Content of Proposals and Evaluation Criteria

All proposals shall include the information identified in the following. The evaluation criteria and maximum possible points are noted for each item of information. An explanation of each item appears immediately in the following sub-sections.

CONTENT AND EVALUATION CRITERIA	MAXIMUM SCORE
1. Introductory Letter	10
2. Key personnel qualifications	30
3. Approach to Project Development and Project Management	30
4. Organizational Structure and Experience	30
<b>TOTAL =</b>	<b>100</b>

All supplemental information shall be presented in a separate section at the end of the proposal. The total number of pages for the proposal should not exceed five (5) pages. An additional page can be added for each additional category proposed on. Front and back covers, and the Confirmation of Business Organization page (Appendix A), are not counted in the page limit requirements. One-Page resumes for key personnel, maximum of three pages, can also be included and will not be considered in the total page count limit. Each page shall be 8½" x 11", unless otherwise noted. When using double-sided printing, each side of the page is counted as one page.

#### **3.03.1 Introductory Letter**

The introductory letter shall include, but need not be limited to, the following information:

- An introduction to the Firm and a brief background of the Firm's capabilities and experiences
- The name of the firm, as well as, the signature, printed name and title, telephone number and email address of *the officer authorized to represent the Consultant in any correspondence, negotiations, and sign any contracts* that may result.
- A clear list of the categories for which proposals are being submitted.

The proposer may use this section to introduce the proposal or to summarize the key provisions of the proposal.

#### **3.03.2 Key Personnel Qualifications**

Provide a statement that portrays how the qualifications and experience of the Consultant's key personnel relate to the described work, and successful projects/familiarity with the City of Shelton.

Scoring will be based on relevance of the experience, qualifications, and technical competence of Project Manager and key staff.

### **3.03.3 Approach to Project Development and Project Management**

Provide a description of your firm's approach to developing and managing City projects and working with a City assigned project manager. How does your firm address critical project milestones, and adjust schedules and resources to meet changing conditions that are often encountered throughout a project? Demonstrate your firm's ability to complete projects on time and within budget.

### **3.03.04 Organizational Structure and Experience**

Briefly describe your organization and its history. You may provide an organization chart (not included in page count) if you wish.

List three projects or contracts in which you provided services similar or equal to the service Category you are proposing/responding to. State some of the key challenges for each project and how each was resolved. Include whether the project was completed on-time and within budget, explaining why budget and/or scheduling issues occurred. Provide a reference for each project including name, phone number, and email address. If proposing for more than one Category, provide a response for each Category proposed.

**APPENDIX A**  
**CONFIRMATION OF BUSINESS ORGANIZATION FORM**

**CITY OF SHELTON**  
**INVITATIONS TO SUBMIT STATEMENT OF QUALIFICATIONS**  
**ON-CALL QUALIFIED POOL LIST**

Identification of Business Organization:

The proposer, by checking the applicable box, represents that it operates as:

- ☐ a corporation incorporated under the laws of the State of Washington
- ☐ an individual doing business as \_\_\_\_\_
- ☐ a partnership (identify all partners on a separate page, attached)
- ☐ a joint venture (identify all joint ventures on a separate page, attached)
- ☐ other (please specify)\_\_\_\_\_

\_\_\_\_\_  
Proposer or Company Name

\_\_\_\_\_  
Washington UBI #

\_\_\_\_\_  
Address of Proposer

\_\_\_\_\_  
Federal Tax ID #

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Email

\_\_\_\_\_  
Signature Name and Title (print)



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## **APPENDIX B**

### **PROPOSED PROJECTS NEXT FIVE YEARS**

Below is a partial list of proposed projects. More information on the proposed 2021 projects can be found on the City of Shelton Website under Public Works, Engineering and Capital Projects.

- Satellite Wastewater Treatment Plant Expansion
- Satellite Wastewater Treatment Plant Reclaimed Tank
- Front Street Pipe Removal
- Forcemain Inspection & Repair
- Main Wastewater Treatment Plan Slack Tide Tank
- Inflow & Infiltration Studies
- Sewer Basin 4 I&I Reduction
- 2<sup>nd</sup> & Birch House Removal & Creek Restoration
- Stormwater Master Plan
- High School Tank Recoating
- Water Meter AMI Upgrade
- System Repair & Replacement
- Hydrant Improvements
- Well 1 to High School Tank Pipe Pressurization
- Water AWIA Risk and Resiliency Assessment
- Well Rehabilitation and Pump Projects
- Civic Center Parking Lot
- Western Gateway
- Wallace Kneeland Roundabouts – A & B
- Olympic Highway North – C to K & K to Wallace Kneeland
- Annual Residential Paving & Chip Seal
- Maintenance Division Laydown Yard
- C Street Landfill Remediation & Cleanup

Statement of Criteria Applied  
On-Call Qualified Pool List RFQ  
By: Brooke Kilts, Public Works Administrative Manager

Submissions were considered responsive based on:

- Received prior to deadline (*section 1.04*)
- Three hardcopies and one digital copy of submittal in sealed envelope with correct identification (*section 1.04*)
- Completed Confirmation of Business Organization page, Appendix A (*Section 1.11*)
- No more than 5 pages, not counting front and back covers, Org. Chart, or Appendix A.  
Additional pages for each additional category proposed on and up to three resume pages per category are allowed. (When pages are double-sided, each side is counted as one page) (*Section 3.03*)

Following my review of the 18 proposals received, it is my opinion 17 submissions are responsive: Consultant Fehr & Peers did not include *Appendix A, Confirmation of Business Organization* in their submission. I have provided scoring sheets for their proposal and 1 point shall be deducted from their overall score, as noted below.

### On-Call Qualified Pool List Content and Evaluation Criteria

Item 1: **Introductory Letter – RFQ Section 3.03.1 - Max 10 pts** – shall include but not be limited to: ① an introduction to the Firm and a brief background of the Firm’s capabilities and experiences, ② the name of the firm and the name, signature, title, telephone number, and email address of the officer authorized to sign contracts and ③ a clear list of categories for which proposals are being submitted.

- |        |  |
|--------|--|
| 10 pts | Included all requirements listed above   |
| 8 pts  | Missing one item of information listed in ① and/or ②   |
| 6 pts  | Missing two items of information listed in ① and/or ②  |
| 4 pts  | Missing three items of information listed in ① and/or ②  |
| 2 pt   | Missing four items of information listed in ① and/or ②   |
| 0 pts  | Missing more than four items of information listed in ① and/or ② <u>OR</u> failed to include ③ |

Item 2: **Key Personnel Qualifications – RFQ Section 3.03.2 – Max 30 pts** – Based on relevance of the experience, qualifications, and technical competence of Project Manager and key staff.

- |           |  |
|-----------|--|
| 21-30 pts | 10+ years of relevant experience AND demonstrates qualifications and technical competence of PM/key staff        |
| 11-20 pts | ≤9 years of relevant experience AND demonstrates qualifications and technical competence of PM/key staff         |
| 0-10 pts  | Any number of years experience but unable to demonstrate qualifications and technical competence of PM/key staff |

Item 3: **Approach to Project Development and Project Management – RFQ Section 3.03.3 – Max 30 pts** – Based on: ① the firm’s approach to developing and managing City projects and ② working with a City assigned project manager. Firm is to ③ describe how they will address critical project milestones, and ④ adjust schedules and resources to meet changing conditions that are often met throughout a project, as well as ⑤ demonstrate the firm’s ability to complete projects on time and within budget.

- |           |  |
|-----------|--|
| 21-30 pts | Clearly defines/describes all 5 aspects noted above  |
| 11-20 pts | Clearly defines/describes only 4 aspects noted above |



0-10 pts Clearly defines/describes only 3 or fewer aspects noted above OR provides more than three but done very poorly

Item 4: **Organizational Structure and Experience – RFQ Section 3.03.04 – Max 30 pts** – Firm is to list three projects or contracts in which they provided similar or equal services to the service Category they are proposing on. For each project listed, they are to ①state some of the key challenges and how each was resolved, ②state whether the project was completed on-time and within budget, and why budget and/or scheduling issues occurred, if any, and ③provide a reference including name, phone number, and email address.

\*If proposing for more than one Category, a response for each Category proposed is required.

21-30 pts All three projects/contracts are similar or equal to the proposed Category and each include all three key items noted above

11-20 pts Only two of the project/contracts are similar or equal to the proposed Category OR one of the project/contracts is missing one of the three key items noted above

0-10 pts Only one of the projects/contracts is similar or equal to the proposed Category OR two or more of the projects/contracts is missing one or more of the key items noted above

\*If technically non-responsive, deductions to the final score will be applied by subtracting one point for each item noted as 'non-responsive'.

## 2021-2023 On-Call Engineering Pool

[illegible]

**CONTRACT FOR ON-CALL QUALIFIED POOL LIST**  
**City of Shelton and Consultant**

This Agreement is entered into by and between the City of Shelton, Washington, ("the City") and **Consultant Name**, ("the Consultant"), whose principal office is located at **Street Address, City, State Zip Code**.

WHEREAS, the City has determined the need to have pools of professional services available on an on-call, as needed basis; and

WHEREAS, the City has selected the Consultant to be in the  pool and perform such services through a formal Qualification Based Selection procedure; and

WHEREAS, the City desires to have the Consultant perform such services pursuant to certain terms and conditions; NOW, THEREFORE,

IN CONSIDERATION OF the mutual benefits and conditions set forth below and in the Invitation to Submit Statement of Qualifications, which is incorporated by reference, the parties hereto agree as follows:

1. **Scope of Services to be Performed by Consultant.** The Consultant shall provide  services on an on-call, as needed basis. Consultant services shall be performed as directed by the City. Authorization shall be through the approval of individual scope and budgets, via Task Order, prepared for each distinct project. Authorization to proceed on a task will be granted with the return of an approved document.
2. **Compliance with All Applicable Laws and Requirements.** In performing such services, the Consultant shall at all times comply with all federal, state, and local laws applicable to the performance of such services and the handling of any funds used in connection therewith; this includes applicable prevailing wage requirements. It is the Consultant's responsibility to identify and comply with such laws, including but not limited to Washington's laws against discrimination; Washington's Industrial Safety and Health Act and associated regulations; Washington's Unemployment Compensation provisions, and any other applicable laws, statutes, regulations or requirements otherwise applicable to the services provided under this Agreement.
4. **Registration, Licensing, Bonding.** Consultant shall at all times maintain appropriate registration, licensing and bonding applicable to professional services to be performed pursuant to this agreement, and has provided or will provide written evidence of the



same to the City upon execution of this Agreement, and shall require and produce the same with respect to any subcontractors/assignees (if the same are authorized by the City to perform pursuant to the terms of this Agreement).

5. **Compensation and Method of Payment.** This Agreement does not guarantee any amount of work for the Consultant, therefore, no minimum level of compensation will be guaranteed. Task Orders will be developed as determined by the City and as provided for in this Agreement. Compensation will be based on the Consultant's Fee Schedule, shown in *Exhibit A* attached hereto and incorporated herein by this reference, and completed services rendered under each approved individual Task Order.

Within five (5) working days of a request, or such other timeframe mutually agreed between the Parties, Consultant will provide the City with a detailed scope and budget to complete the then needed services, which will be included in the Task Order assigned. Upon approval by the City contract administrator, following appropriate City policy, the executed Task Order will become part of this contract as if set forth with the initial execution of this contract.

Consultant will then be authorized to proceed with the approved scope and authorized to bill for services under that scope not more frequently than once per month until the approved scope is complete or canceled.

The City shall pay the Consultant for services rendered within thirty (30) days of receipt of an approvable invoice as well as the form set forth in *Exhibit B, Billing Voucher*, attached hereto and incorporated herein by this reference.

The Consultant shall complete and return *Exhibit C, Tax Identification Number*, to the City prior to or along with the first billing voucher submittal. In accordance with the Shelton Municipal Code, the Consultant is subject to licensing requirements and business and occupation tax levied under the Shelton Municipal Code. A City of Shelton Business License is required irrespective of whether goods or services are delivered inside or outside of the City limits, and irrespective of whether the Consultant's office is within the City limits, and no payment will be made until one is obtained.

6. **Provisions for Changes in Scope of Consultant Services.** The Consultant agrees to perform those services based on approved Task Orders. Unless modified in writing and agreed to by both parties, the duties of the Consultant shall not be construed to exceed those services. The City and the Consultant agree that if additional duties are to be performed by the Consultant in the prosecution of this work, the Consultant shall submit an additional or supplemental scope of work and upon the City's approval, shall be compensated based on that approved additional or supplemental scope of work.

7. **Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing on the date of the last signature affixed hereto and will be in effect for two years with two optional one year extensions upon written agreement of the Consultant and City contract administrator, unless sooner terminated under the provisions hereinafter specified.
8. **Ownership and Use of Documents.** All documents, drawings, specifications, and other materials produced by the Consultant in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not. The City shall hold the Consultant harmless for the City's use of the documents, drawings, specifications, and other materials outside of the project intended.
9. **Independent Consultant.** The Consultant and the City agree that the Consultant is an Independent Contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties. Neither the Consultant nor any employee of the Consultant shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for paying, withholding, or otherwise deducting any customary state or federal payroll deductions, including but not limited to FICA, FUTA, state industrial insurance, state workers compensation, or otherwise assuming the duties of an employer with respect to the Consultant or any employee of the Consultant.
10. **Indemnification / Hold Harmless.** Consultant shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

**A. Insurance Term**

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

**B. No Limitation**

The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

**C. Minimum Scope of Insurance**

The Consultant shall obtain insurance of the types and coverage described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The City shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO endorsement form CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

**D. Minimum Amounts of Insurance**

The Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate.

3. Professional Liability insurance shall be written with limits no less than \$2,000,000 per claim and \$2,000,000 policy aggregate limit.

**E. Other Insurance Provision**

The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

**F. Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

**G. Verification of Coverage**

The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Agreement before commencement of the work.

**H. Notice of Cancellation**

The Consultant shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.

**I. Failure to Maintain Insurance**

Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

**J. City Full Availability of Consultant Limits**

If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

**11. Record Keeping and Reporting.**



- A. The Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed pursuant to this Agreement. The Consultant shall also maintain such other records as may be deemed necessary by the City to ensure proper accounting of all funds contributed by the City to the performance of this Agreement.
  - B. These records shall be maintained for a period of seven (7) years after termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with RCW Chapter 40.14 and by the City.
  - C. Consultant acknowledges that the City is a public entity subject to Washington State laws regarding Public Records and Open Public Meetings. For purposes of the foregoing statutes, Consultant is an independent entity and not a functional equivalent of a public agency. Consultant agrees that unless otherwise explicitly provided herein, the City is authorized to produce all records related to this Agreement in response to public records requests received. The Consultant agrees to maintain, preserve and make available upon City request, in a format requested by the City, all records related to this Agreement for a period of no less than seven (7) years from the date of Agreement termination, or longer period as required to comply with Washington State Records Retention standards. The Consultant agrees to ensure that this records requirement is satisfied by any subcontractors, with this requirement to be explicitly set forth in a written agreement between the Consultant and subcontractor.
  - D. Upon expiration, cancellation or termination of this Agreement for any reason, the City is entitled to receive, upon City request, all plans, specifications, reports and other materials related to this Agreement and within the Consultant's possession or control, in electronic format or hard copies, as specified by the City, all of which shall be the property of the City to use at its discretion.
  - E. The Consultant agrees to maintain current as-built documentation and provide the same to the City throughout the course of any project, and agrees that the City has the ability to withhold any payments due under this Agreement in the event the Consultant fails to keep as-built documentation current and copied to the City.
12. **Audits and Inspections.** The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review, or audit as allowed by law during the performance of this Agreement. The City shall have the right to conduct an audit of the Consultant's financial statement and condition and to a copy of the results of any such audit or other examination performed by or on behalf of the Consultant.

13. **Termination.** This Agreement may at any time be terminated for any reason, with or without cause, by the City upon giving to the Consultant thirty (30) days' written notice of the City's intention to terminate the same. Individual approved scopes of work may be cancelled by 24 hours' notice to the Consultant. If the Consultant's insurance coverage is canceled for any reason, the City shall have the right to terminate this Agreement immediately. Consultant will be paid for satisfactory work performed through the date of termination.

Notice of termination or cancellation shall be provided in the manner specified under the "Notice" section of this agreement.

14. **Discrimination Prohibited.** The Consultant shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Consultant under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap, or any other protected class.
15. **Assignment and Subcontract.** The Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of the City contract administrator.
16. **Entire Agreement.** This Agreement and Exhibits A, B, and C contain the entire agreement between the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind either party. Either party may request changes to the Agreement. Proposed changes, which are mutually agreed upon and signed by each parties authorized signatory, shall be incorporated by written amendments to this Agreement.
17. **Notices.** Notice regarding this Contract shall be by first class regular mail or by e-mail to the contacts specified below. Additional or separate contact information, specific to individual assignments or work, will be provided in issued Task Orders. Notice shall be deemed received either on the third business day following regular first class mailing (not including date of mailing in calculation), or on the day and time of e-mail transmittal.

The designated representative for the City of Shelton is:

Brooke Kilts, Public Works Administrative Manager  
City of Shelton  
525 West Cota Street  
Shelton, Washington 98584  
Phone number: (360) 545-2317  
Email: brooke.kilts@sheltonwa.gov

Notices to the City shall be sent to the address noted above.

Notices to the Consultant shall be sent to the designated representative at the following address:

Consultant Name  
Company Name  
Address  
City, WA Zip Code  
Phone number:  
Email:

18. **Applicable Law; Venue; Attorneys' Fees.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in Mason County, Washington. The parties shall bear their own attorneys' fees and costs of suit.
19. **Representation of Consultant.** The Consultant represents to the City that it has no conflict of interest in performing any of the services anticipated by this contract. In the event that the Consultant is asked to perform services for a project with which it may have a conflict, it will disclose such conflict to the City. At the discretion of the City, the City may direct the Consultant to refrain from entering into a contract with representatives of the conflicting project or bar the Consultant from conflicting work under this contract.
20. **Invoice and Activity Report.** The Consultant shall provide an activity report with each invoice highlighting Task Order number(s) associated with services provided during the billing period, upcoming activities, and emerging management issues.
21. **No Third Party Beneficiary.** This Agreement benefits only the Parties to the Agreement, and nothing in this Agreement, express or implied, confers on any third party any legal or equitable right, benefit, or remedy of any nature.
22. **Severability.** Should any term, provision, condition or other portion of this Agreement or its application be held to be inoperative, invalid or unenforceable, and the remainder of

this Agreement still fulfill its purposes, the balance of this Agreement or its application shall not be affected thereby, and shall continue in full force and effect.

#### CONTRACT SIGNATURES

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**CONSULTANT FIRM NAME**

**CITY OF SHELTON**

By: \_\_\_\_\_  
**Consultant Name, Title**

By: \_\_\_\_\_  
Jeff Niten, City Manager



## EXHIBIT A

### Consultant Fee Schedule

**EXHIBIT B**

City of Shelton  
Billing Voucher

To: City of Shelton  
525 West Cota  
Shelton, Washington 98584  
Phone: (360) 426-9731  
FAX: (360) 426-7746

Submittal No.: \_\_\_\_\_

Consultant: \_\_\_\_\_ Telephone: (    ) \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Project Title: \_\_\_\_\_  
Contract Period: \_\_\_\_\_ Reporting Period: \_\_\_\_\_  
Amount requested this invoice: \$ \_\_\_\_\_

Invoice Number: \_\_\_\_\_ Date of Invoice: \_\_\_\_\_ (Attach Invoice)

\_\_\_\_\_  
Authorized Signature

-----  
**BUDGET SUMMARY**

Total contract amount	\$ _____
Previous payments	\$ _____
Current request	\$ _____
Total requested this contract to date	\$ _____
Balance remaining	\$ _____

Note: If applicable, submit a separate voucher for each project, which is funded by your City of Shelton contract.

-----  
*For Department Use Only*

\_\_\_\_\_  
Public Works Director

Date: \_\_\_\_\_

## EXHIBIT C

CITY OF SHELTON  
525 West Cota Street  
Shelton, WA 98584  
Phone: (360) 426-9731  
FAX: (360) 426-7746

### TAX IDENTIFICATION NUMBER

In order for you to receive reimbursement from the City of Shelton, we must have either a Tax Identification Number or a Social Security Number. The Internal Revenue Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business.

Please complete the following information request form and return it to the City of Shelton before or along the submittal of the first billing voucher.

Please check the appropriate category:

☐ Corporation      ☐ Partnership      ☐ Government Agency  
☐ Individual/Proprietor      ☐ Other (please explain)

Tax Identification #: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_

Business e-mail: \_\_\_\_\_

\_\_\_\_\_  
Authorized Signature (required)

\_\_\_\_\_  
Date



## CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item G1)

Touch Date: 12/15/2020  
Brief Date: 01/05/2021  
Action Date: 01/19/2021

Department: Community Development  
Presented By: Mark Ziegler, Director

### APPROVED FOR COUNCIL PACKET:

Action Requested:

#### ROUTE TO:

#### REVIEWED:

PROGRAM/PROJECT TITLE:

**Eagle Point Park Master Plan**

ATTACHMENTS:

**Consultant Contract**

☒ Dept. Head

☐ Finance Director

☐ Attorney

☒ City Clerk

☐ City Manager

☐ Ordinance

☐ Resolution

☒ Motion

☐ Other

### DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

The Eagle Point Park property was acquired by the City in 2016. As a portion of the greater Oakland Bay restoration project, the South Puget Sound Salmon Enhancement Group obtained the 14 acres (comprised of 8 acres of upland, 4 acres of tidelands, and 2 acres of riparian) and deeded to the City for long-term management. The deed is restricted by the grant funding utilized for acquisition to habitat preservation and public access for passive recreation. As the only City owned park property on Oakland Bay, the effort to develop nature trails, provide water access, and maintain open space meet top priorities of the Parks, Recreation, Open Space and Trails Plan. The first step is developing a master plan of the site to further vet uses and gather community input.

A request for qualifications was published on September 16, 2020. Ten firms responded with statements of qualifications for Staff and the Parks and Recreation Advisory Committee to review. Robert W. Droll was the highest scoring consultant. The enclosed professional services contract outlines the tasks associated with the master plan process.

### ANALYSIS/OPTIONS/ALTERNATIVES:

None

### BUDGET/FISCAL INFORMATION:

Funding of \$150,000 for this project is derived from the SMPD and was budgeted in 2020 (\$30,000) & 2021 (\$120,000).

### PUBLIC INFORMATION REQUIREMENTS:

None

### STAFF RECOMMENDATION/MOTION:

"I move to approve the contract with Robert W. Droll for master plan design of Eagle Point Park and authorize the Mayor to sign on behalf of the City".



## CONTRACT FOR SERVICES

### City of Shelton and Robert W. Droll Landscape Architect

This Agreement is entered into by and between the City of Shelton, Washington, ("the City") and Robert W. Droll Landscape Architect, ("the Consultant"), whose principal office is located at 4405 7<sup>th</sup> Ave. SE, Suite 203, Lacey, WA 98503

WHEREAS, the City has determined the need to have landscape and park design services performed for the **Eagle Point Park Master Plan**; and

WHEREAS, the City opened proposals submitted in response to the Request for Qualifications on October 30, 2020 and selected Robert W. Droll Landscape Architect following review of proposals received; and

WHEREAS, the City desires to have the Consultant perform such services pursuant to the following terms and conditions;

NOW, THEREFORE, IN CONSIDERATION OF the mutual benefits and conditions set forth below, the parties hereto agree as follows:

1. **Scope of Services to be Performed by Consultant.** The Consultant shall perform services, as described on **Exhibit "A"** attached hereto and incorporated herein by this reference as if fully set forth in this contract.
2. **Compliance with Applicable Industry Standards, Laws and Requirements.** In performing such services, the Consultant shall at all times comply with all federal, state and local laws applicable to the performance of such services. It is the Consultant's responsibility to identify and comply with such laws, including but not limited to Washington's laws against discrimination; Washington's Industrial Safety and Health Act and associated regulations; Washington's Unemployment Compensation provisions, and any other applicable laws, statutes, regulations or requirements otherwise applicable to the services provided under this Agreement.
3. **Registration, Licensing and Bonding.** Consultant shall at all times maintain appropriate registration, licensing and bonding applicable to professional services to be performed pursuant to this Agreement, and has provided or will provide written evidence of the same to the City upon execution of this Agreement, and shall require and produce the same with respect to any subcontractors/assignees (if the same are authorized by the City to perform pursuant to the terms of this Agreement).
4. **Time Devoted.** The Consultant shall devote such time as reasonably necessary for the satisfactory performance of the services under this Agreement. Should Client require additional services not included under this Agreement, the Consultant shall make reasonable effort to provide such additional services within the time schedule without decreasing the effectiveness of the performance of services required under this

Agreement, and shall be compensated for such additional services as agreed between the Parties.

5. **Provisions of Facilities, Equipment, Personnel.** The Consultant shall furnish the facilities, equipment and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.
6. **Compensation and Method of Payment.** The City shall pay the Consultant for services rendered within thirty (30) days of receipt of an approvable invoice as well as the form titled, **Exhibit "B"**, attached hereto and incorporated herein by this reference.

The Consultant shall provide engineering services for the initial phase of this project at a cost not to exceed **\$41,380.00**. If additional task authorizations are issued, a new scope and budget will be requested.

The Consultant shall complete and return **Exhibit "C"**, Tax Identification Number, to the City prior to or along with the first billing voucher submittal. The Consultant is required to have a City Business license and no payment will be made until one is obtained.

7. **Provisions for Changes in Scope of Consultant Services.** The Consultant agrees to perform those services which are described in **Exhibit "A"** attached hereto. Unless modified in writing and agreed to by both parties, the duties of the Consultant shall not be construed to exceed those services. The City and the Consultant agree that if additional duties are to be performed by the Consultant in the prosecution of this work, the Consultant shall submit an additional or supplemental work program and upon the City's approval, shall be compensated on the same terms of this contract as previously stated, or in a manner mutually agreed upon by both parties.
8. **Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing on the date of the last signature affixed hereto and ending **September 30, 2021**, unless sooner terminated under the provisions hereinafter specified.
9. **Ownership and Use of Documents.** All documents, drawings, specifications, and other materials produced by the Consultant in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not. The City shall hold the Consultant harmless for the City's use of the documents, drawings, specifications, and other materials outside of the project intended.
10. **Independent Consultant.** The Consultant and the City agree that the Consultant is an Independent Contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties. Neither the Consultant nor any employee of the Consultant shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for paying, withholding, or otherwise deducting any customary state or federal payroll deductions, including but not limited to FICA, FUTA, state industrial insurance, state workers



compensation, or otherwise assuming the duties of an employer with respect to the Consultant or any employee of the Consultant.

In accordance with Shelton Municipal Code, for the privilege of accepting or executing a contract with the City of Shelton, irrespective of whether goods or services are delivered within or outside the city, or whether the person's office is within or outside the city, the consultant is subject to the licensing requirements and business and occupation tax levied in SMC Chapters 5.04.030 and 3.52.060.

**11. Indemnification / Hold Harmless**

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

**A. Insurance Term**

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

**B. No Limitation**

The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the Public Entity's recourse to any remedy available at law or in equity.

**C. Minimum Scope of Insurance**

The Consultant shall obtain insurance of the types and coverage described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be as least as broad as Insurance Services Office (ISO) form CA 00 01.

2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The Public Entity shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the Public Entity using an additional insured endorsement at least as broad as ISO CG 20 26.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability insurance appropriate to the Consultant's profession.

**D. Minimum Amounts of Insurance**

The Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

**E. Other Insurance Provision**

The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the Public Entity. Any insurance, self-insurance, or self-insured pool coverage maintained by the Public Entity shall be excess of the Consultant's insurance and shall not contribute with it.

**F. Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

**G. Verification of Coverage**

The Consultant shall furnish the Public Entity with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.



## **H. Notice of Cancellation**

The Consultant shall provide the Public Entity with written notice of any policy cancellation within two business days of their receipt of such notice.

## **I. Failure to Maintain Insurance**

Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the Public Entity may, after giving five business days notice to the Consultant to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Public Entity on demand, or at the sole discretion of the Public Entity, offset against funds due the Consultant from the Public Entity.

## **J. Public Entity Full Availability of Consultant Limits**

If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this contract or whether any certificate of insurance furnished to the Public Entity evidences limits of liability lower than those maintained by the Consultant.

## **12. Record Keeping and Reporting.**

- A. The Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed pursuant to this Agreement. The Consultant shall also maintain such other records as may be deemed necessary by the City to ensure proper accounting of all funds contributed by the City to the performance of this Agreement.
- B. These records shall be maintained for a period of seven (7) years after termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with RCW Chapter 40.14 and by the City.

13. **Audits and Inspections.** The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review, or audit as allowed by law during the performance of this Agreement. The City shall have the right to conduct an audit of the Consultant's financial statement and condition and to a copy of the results of any such audit or other examination performed by or on behalf of the Consultant.

14. **Termination.** This Agreement may at any time be terminated for any reason by the City upon giving to the Consultant thirty (30) days written notice of the City's intention to terminate the same. If the Consultant's insurance coverage is canceled for any reason, the

City shall have the right to terminate this Agreement immediately. Consultant will be paid for satisfactory work performed through the date of termination.

15. **Discrimination Prohibited.** The Consultant shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Consultant under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap, or any other protected class.
16. **Assignment and Subcontract.** The Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of the City.
17. **Entire Agreement.** This Agreement and Exhibits A, B, & C contain the entire agreement between the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind either party. Either party may request changes to the Agreement. Proposed changes, which are mutually agreed upon and signed by each parties authorized signatory, shall be incorporated by written amendments to this Agreement.
18. **Notices.** The designated project representative for the City of Shelton is:

**Mark Ziegler**  
Community Development Director  
City of Shelton  
525 West Cota Street  
Shelton, Washington 98584  
Phone number: (360) 432-5194  
Email: mark.ziegler@sheltonwa.gov

Notices to the City shall be sent to the address noted above.

The designated project representative for the Consultant is **Robert W. Droll**. Notices to the Consultant shall be sent to the following address:

**Robert W. Droll**  
Principal  
Robert W. Droll, Landscape Architect  
4405 7<sup>th</sup> Ave., Suite 203  
Lacey, WA 98503  
Phone number: (360) 456-3813  
Email: bob@rwdroll.com

19. **Applicable Law; Venue; Attorneys' Fees.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the

parties specifically understand and agree that venue shall be exclusively in Mason County, Washington.

20. **Representation of Consultant.** The Consultant represents to the City that it has no conflict of interest in performing any of the services set forth in **Exhibit "A."** In the event that the Consultant is asked to perform services for a project with which it may have a conflict, it will disclose such conflict to the City. At the discretion of the City, the City may direct the Consultant to refrain from entering into a contract with representatives of the conflicting project.
21. **Invoice and Activity Report.** The Consultant shall provide an activity report with each invoice highlighting services provided during the billing period, upcoming activities, and emerging management issues.

#### CONTRACT SIGNATURES

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2021

CITY OF SHELTON

Robert W. Droll, Landscape Architect

By: \_\_\_\_\_  
Kevin Dorcy, Mayor

By: \_\_\_\_\_  
Signature

Printed Name and Title:

\_\_\_\_\_

Attest/Authenticated:

\_\_\_\_\_  
City Clerk (or witness to signature)





**Exhibit A****Scope of Services****Eagle Point Park Master Plan****Scope of Work**

This assignment includes the work to be performed by Robert W. Droll, Landscape Architect, PS, (hereinafter RWD) for the Eagle Point Park Master Plan (hereinafter Project), for Shelton's Community Development (hereinafter Owner). Professional Services include wetland delineation, site survey, a public engagement plan, Concept Master Plans, the Preferred Master Plan, and an Estimate of Probable Capital Cost.

It is understood this Master Plan work is the first step towards the Final Design and Construction implementation of Eagle Point Park Master Plan improvements, however this Final Design work is not part of this Scope of Work. It is understood, at the discretion of the Owner, that this work could be added through a contract amendment at a later date.

**Project Goal**

To develop an Eagle Point Park Master Plan focused on providing parking, environmental education, trails, and water access, including the possibility of kayak/canoe access.

**Basis of Proposal**

This Scope of Services and Fee Proposal are based upon written and verbal communications with Mark Zeigler, Shelton's Community Development Director, review of RCO Grant documentation, and previous visits to the Project Site.

**RWD Project Team**

Robert W. Droll, ASLA, Project Manager - RWD  
Ann Dingthonsai, Landscape Technician - RWD  
Ann Boeholt, PWS, Soundview Consultants  
Dominic Miller, PE & Survey Crew, Gray & Osborne

**Scope of Services**

RWD will provide the Scope of Services as defined herein.

**Task 1 Master Plan****Task 1.01 Wetland Delineation**

Soundview will delineate Wetland, Ordinary High Water, and High Tide Line within the Survey Limits shown on Exhibit D. Please refer to Exhibit C for Soundview Consultants full Scope of Work.

**Task 1.02 Design Survey**

A design survey will be conducted in compliance with WAC 332-130-145 Topographic elements on maps—Requirements by Gray and Osborne. Refer to Exhibit D for Gray & Osborne's full Scope of Work. Right-of-Ways and property boundaries will be shown but are not survey accurate, since this work does not include a boundary survey. RWD will meet with survey crew and Owner on site the first day of wetland delineation and survey work (this will be scheduled on the same day).

**Task 1.03 Virtual Stakeholder Meeting #1**

Owner and RWD will meet with the Key Stakeholders Group collectively virtually. Owner will be responsible for providing meeting space (virtually) and typing up meeting notes. The expected outcome of this meeting is a common consensus of the physical, social, and behavioral challenges and opportunities with the use of Eagle Point Park and defining the conceptual range of park plan solutions. This will be considered Virtual Stakeholder Meeting #1.

**Task 1.04 Concept Master Plan Concepts**

Based upon the outcomes of Task 1.04 and 1.05 and the Owner's direction, RWD will prepare 2 Concept Master Plans that conceptually fulfill the Project's Goal.

**Task 1.05 Site Visit/Concept Review with Owner**

RWD will send both Concept Plans to Owner two days before this Site Visit. RWD and Owner will meet on-site to review the Concept Plans implications.

**Task 1.06 Concept Master Plan Revisions**

RWD will make revisions to Concept Master Plans as necessary based upon the Owner's written direction. Owner and RWD will virtually meet to review revisions and to collectively evaluate each Concept Master Plan.

**Task 1.07 Virtual Stakeholder Meeting #2 - Concept Master Plan Review by Stakeholders**

Owner will provide Concept Master Plans to each Key Stakeholder for their review and understanding prior to Virtual Stakeholder Meeting #2. Owner will be responsible for answering any questions the Key Stakeholder may have during their review. Owner and RWD will conduct Virtual Stakeholder Meeting #2 with Stakeholders to review Concept Master Plans. Key Stakeholders will be asked to evaluate each Concept Master Plan before Public Virtual Meeting #2. The expected outcome of this Task for the Owner and the Key Stakeholder Group to develop a consensus on the Preferred Master Plan.

**Task 1.08 Refine Preferred Master Plan**

Based upon the Owner's written direction, RWD will revise the Preferred Master Plan.

**Task 1.09 Virtual Public Meeting #1: Concept Master Plan Review & Key Stakeholder Preferred Master Plan Concept**

RWD will prepare the material for Virtual Public Meeting #1. Owner and RWD will conduct Virtual Public Meeting #1 to present the Preferred Master Plan. Virtual Public Meeting #1 format will be as follows and presented in a Powerpoint delivery method:

- ☐ Owner to present Introductions, Project History/Need/Project Goal, Key Stakeholders Involvement
- ☐ RWD to present Concept Master Plans
- ☐ A Key Stakeholder will present the Key Stakeholders' Group Preferred Master Plan Recommendation
- ☐ Questions will be asked by the Public via Chat and answered by Owner and RWD; Owner will serve as Moderator
- ☐ Next Steps and Wrap-up by Owner

**Task 1.10 Refine Preferred Master Plan**

Based upon the Owner's written direction, RWD will refine the Preferred Master Plan.

**Task 1.11 Prepare Estimate of Probable Capital Costs**

RWD will prepare a detailed itemized Estimate of Capital Cost for all proposed improvements in RCO's Grant Format.

**Task 1.12 Virtual Public Meeting #2-Preferred Master Plan**

RWD will prepare the material for Public Meeting #2. Owner and RWD will conduct virtual Public Meeting #2 to present the Preferred Master Plan and Estimate of Probable Capital Cost. The Public Meeting format will be as follows and presented in a Powerpoint delivery method:

- ☐ Owner to present Introductions, Project History/Need/Project Goal, Key Stakeholders Involvement
- ☐ RWD to present Preferred Master Plan and Estimate of Probable Capital Costs
- ☐ Questions will be asked by the Public via Chat and answered by Owner and RWD; Owner will serve as Moderator
- ☐ Next Steps and Wrap-up by Owner

**Task 1.13 Refine Preferred Master Plan and Estimate of Probable Capital Cost Estimate**

Based upon the Owner's written direction, RWD will revise the Preferred Master Plan and Estimate of Capital Cost. Final Deliverable Product will be a Powerpoint and .pdf summary of the Master Plan Process, Preferred Master Plan, and Estimate of Probable Capital Costs, a colored and rendered .pdf file of the Preferred Master Plan and the Estimate of Probable Capital Costs in RCO's Grant Format.



**Task 1.14 Parks and Recreation Advisory Committee Briefing**

Owner will be responsible for briefing the Shelton Parks & Recreation Advisory Committee on the Eagle Point Park Master Plan.

**Task 1.15 City Council Briefing**

Owner will be responsible for briefing the Shelton City Council on the Eagle Point Park Master Plan.

**Task 1.16 City Council Master Plan Adoption**

Owner will be responsible making any revisions originating from the City Council Briefing and for presenting the Eagle Point Park Master Plan to Shelton City Council for adoption.

**Task 1.17 Project Management**

Manage the project progress & direction, communications with Owner, review items provided by others, provide project administration.

**Project Schedule**

RWD estimate this assignment may take 4-6 months to fulfill. RWD will prepare a project Schedule upon contract receipt.

**Additional Services, Excluded Services**

Specific items that are not within the scope of work/services include, but are not limited to, the following. It is understood these professional services, and others, could be added at a future date.

- Written Master Plan Report
- Permitting, SEPA, Critical Areas Report, etc.
- Demand analysis/economic modeling
- Design Development, Construction Documents or Proposed Design of any on or off-site improvements or building improvements
- Any planning, design, and public engagement work other than defined herein
- Legal Descriptions of easements, Rights-of-Ways, Property Boundaries, etc.
- Involvement with City Council Briefing and Adoption process
- Wildlife and archaeological investigations
- Web-site preparation and hosting, visual impact analysis, photo-simulations, perspective character sketches
- Noise studies, light studies, air quality studies
- Public Meetings, neighborhood meetings, Hearing Examiner meetings, etc. other than stated herein
- Public Survey preparation and hosting, results compilation
- Environmental Assessments
- Grant preparations
- Traffic Impact Analysis & Parking Generation Analysis



**Professional Fee**

Professional Fees to accomplish the Scope of Services is shown on Exhibit B. RWD will perform the Scope of Services on a Lump Sum Basis and will invoice monthly for work performed.

**Direct Expenses**

RWD has allocated a budget for Direct Expenses such as plots, copies, mailings, lodging, and typical business-related direct expenses. Direct expenses incurred through outside resources will be directly invoiced plus ten percent.

**Owner's Responsibilities**

Owner shall provide the following information or services as required for performance of the work. RWD assumes no responsibility for the accuracy of such information or services and shall not be liable for errors and omissions therein. Should RWD be required to provide services in obtaining or coordinating compilation of this information, such services shall be charged as Additional Services.

- Virtual meetings will be organized, scheduled, and reserved by Owner through a recognized meeting program such as Teams, Zoom, or GoToMeeting. Public notices will be provided by Owner.
- Electronic files in ACAD format of existing conditions of Wastewater Treatment Plant if available
- Operational and maintenance access requirements of Wastewater Treatment Plant and Public Works
- Existing Geotechnical Reports
- Providing the necessary COVID 19 protocols
- Typed up meeting notes from RWD and the Owner
- Existing as-built site engineering and utility base information in ACAD format
- Boundary / Right-of-Way surveys

## - Eagle Point Park Master Plan Fee

City of Shelton			Bob Droll, ASLA		Ann Dinthongsai		Clerical		Gray & Osborne or Soundview
#	Task	Task Total	hrs.	subtotal	hrs.	subtotal	hrs.	subtotal	
1.00	<b>Master Plan</b>								
1.01	Wetland Delineation	\$ 7,740.00		\$ -		\$ -		\$ -	\$ 7,740.00
1.02	Design Survey / Site Visit with Shelton	\$ 12,120.00	6	\$ 900.00		\$ -		\$ -	\$ 11,220.00
1.03	Virtual Stakeholders Meeting #1	\$ 600.00	4	\$ 600.00		\$ -		\$ -	
1.04	Schematic Master Plan Concepts	\$ 5,600.00	16	\$ 2,400.00	32	\$ 3,200.00		\$ -	
1.05	Site Visit Concept Review w/ Shelton	\$ 1,000.00	4	\$ 600.00	4	\$ 400.00		\$ -	
1.06	Concept Master Plan Revisions	\$ 2,800.00	8	\$ 1,200.00	16	\$ 1,600.00		\$ -	
1.07	Virtual Stakeholder Meeting #2 - Schematic Master Plan Review with Key Stakeholders	\$ 600.00	4	\$ 600.00		\$ -		\$ -	
1.08	Refine Preferred Master Plan	\$ 1,900.00	2	\$ 300.00	16	\$ 1,600.00		\$ -	
1.09	Virtual Public Meeting #1: Review Concept Master Plan Concepts & Select Preferred Master Plan Concept	\$ 1,400.00	4	\$ 600.00	8	\$ 800.00		\$ -	
1.10	Refine Preferred Master Plan	\$ 1,100.00	2	\$ 300.00	8	\$ 800.00		\$ -	
1.11	Prepare Estimate of Probable Capital Costs	\$ 1,100.00	2	\$ 300.00	8	\$ 800.00		\$ -	
1.12	Virtual Public Meeting #2: Preferred Master Plan	\$ 1,400.00	4	\$ 600.00	8	\$ 800.00		\$ -	
1.13	Refine Preferred Master Plan & Estimate of Probable Capital Cost	\$ 900.00	2	\$ 300.00	6	\$ 600.00		\$ -	
1.14	Parks and Recreation Advisory Committee Briefing	\$ -		\$ -		\$ -		\$ -	
1.15	City Council Briefing	\$ -		\$ -		\$ -		\$ -	
1.16	City Council Master Plan Adoption	\$ -		\$ -		\$ -		\$ -	
1.17	Project Management	\$ 2,620.00	16	\$ 2,400.00		\$ -	4	\$ 220.00	
	<b>Master Plan Subtotal</b>	\$ 40,880.00							
	<b>Direct Expenses</b>	\$ 500.00							
	<b>Professional Services Total</b>	\$ 41,380.00							

**EXHIBIT B**

City of Shelton  
Billing Voucher

To: City of Shelton  
525 West Cota  
Shelton, Washington 98584  
Phone: (360) 426-9731  
FAX: (360) 426-7746

Submittal No.: \_\_\_\_\_

Consultant: \_\_\_\_\_ Telephone: (    ) \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Project Title: \_\_\_\_\_

Contract Period: \_\_\_\_\_ Reporting Period: \_\_\_\_\_

Amount requested this invoice: \$ \_\_\_\_\_

Invoice Number: \_\_\_\_\_ Date of Invoice: \_\_\_\_\_ (Attach Invoice)

\_\_\_\_\_  
Authorized Signature

-----  
**BUDGET SUMMARY**

Total contract amount	\$ _____
Previous payments	\$ _____
Current request	\$ _____
Total requested this	_____
contract to date	\$ _____
Balance remaining	\$ _____

Note: If applicable, submit a separate voucher for each project, which is funded by your City of Shelton contract.  
-----

*For Department Use Only*

\_\_\_\_\_  
Community Development Director

Date: \_\_\_\_\_

## EXHIBIT C

CITY OF SHELTON  
525 West Cota Street  
Shelton, WA 98584  
Phone: (360) 426-9731  
FAX: (360) 426-7746

### TAX IDENTIFICATION NUMBER

In order for you to receive reimbursement from the City of Shelton, we must have either a Tax Identification Number or a Social Security Number. The Internal Revenue Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business.

Please complete the following information request form and return it to the City of Shelton before or along the submittal of the first billing voucher.

Please check the appropriate category:

☐ Corporation      ☐ Partnership      ☐ Government Agency  
☐ Individual/Proprietor      ☐ Other (please explain)

Tax Identification #: \_\_\_\_\_

UBI #: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_

Business e-mail: \_\_\_\_\_

\_\_\_\_\_  
Authorized Signature (required)

\_\_\_\_\_  
Date





## CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item G2)

Touch Date:  
Brief Date: 01/05/2021  
Action Date: 01/19/2021

Department: Public Works  
Presented By: Jay Harris

### APPROVED FOR COUNCIL PACKET:

Action Requested:

#### ROUTE TO:

#### REVIEWED:

PROGRAM/PROJECT TITLE:  
Ordinance No. 1959-1120 Mason  
County Franchise Agreement

☒ Dept. Head

JOH

☐ Finance Director

☐ Attorney

☒ City Clerk

☐ City Manager

#### ATTACHMENTS:

- Ordinance No. 1959-1120
- Attachment A to Ordinance  
(Franchise Agreement)
- Public Notice



Ordinance



Resolution



Motion



Other

### DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

City and County staff have been working towards a new Franchise Agreement to benefit the citizens of Mason County, protect the City's interests, as well as protect and preserve the utilities and infrastructure that serve our citizens.

The previous Franchise Agreement with the County was executed in 2007 and expired in 2017. This new Agreement will provide an initial ten (10) year term and will automatically renew for periods of five (5) years unless cancelled by either party.

The attached Franchise Agreement has been reviewed and approved by the City Attorney.

### ANALYSIS/OPTIONS/ALTERNATIVES:

The Council has the option to adopt the proposed Franchise Agreement as presented, request staff re-enter negotiations over modifications to terms, or take no action at this time.

### BUDGET/FISCAL INFORMATION:

There are no budget impacts other than those associated with specific projects that may occur in the future.

### PUBLIC INFORMATION REQUIREMENTS:

Public Notice was provided to the newspaper of record in the interest of transparency.

### STAFF RECOMMENDATION/MOTION:

Staff recommends a reading of Ordinance No. 1959-1120 and: *"I move to adopt Ordinance No. 1959-1120, an Ordinance accepting a non-exclusive Franchise Agreement between Mason County and the City of Shelton for the operations and maintenance of water, sewer, reclaimed water, and stormwater utilities".*

**ORDINANCE NO.  
1959-1120**

**AN ORDINANCE OF THE CITY OF SHELTON, WASHINGTON,  
ACCEPTING A NON-EXCLUSIVE FRANCHISE AGREEMENT BETWEEN  
MASON COUNTY AND THE CITY OF SHELTON FOR THE  
OPERATIONS AND MAINTENANCE OF WATER, SEWER, RECLAIMED  
WATER, AND STORMWATER UTILITIES**

WHEREAS, the City of Shelton operates water, sewer, reclaimed water, and stormwater utilities, and has infrastructure related to these utilities outside city limits and within Mason County rights-of-way; and

WHEREAS, the City finds that it is in the public interest to have the ability to operate and maintain its utility infrastructures within the County; and

WHEREAS, the previous franchise agreement with Mason County, accepted by the City on April 2, 2007, expired in 2017; and

WHEREAS, the Parties have come to terms on a new Franchise Agreement.

NOW, THEREFORE, the City Council of the City of Shelton, Washington, ordains as follows:

**Section 1.** Acceptance of Franchise Agreement. A nonexclusive franchise for operations and maintenance of city utilities within Mason County rights-of-way is hereby accepted under the terms and conditions set forth substantially in the form of Exhibit A attached hereto and incorporated herein by reference. The City Manager is authorized to sign the final Agreement.

**Section 2.** This Ordinance shall take effect and be in force five days after passage and publication as required by law.

Passed by Shelton City Council this 19th of January 2021.

\_\_\_\_\_  
Mayor Kevin Dorcy

AUTHENTICATED:

\_\_\_\_\_  
Donna Nault, City Clerk

**FRANCHISE AGREEMENT FOR  
WATER, SEWER, RECLAIMED WATER, AND STORMWATER UTILITIES  
BETWEEN MASON COUNTY AND THE CITY OF SHELTON**

WHEREAS, the City of Shelton operates a water, sewer, reclaimed water and stormwater utilities, and has infrastructure related to these utilities outside city limits underneath Mason County rights-of-way; and

WHEREAS, the County finds that it is in the public interest to grant the City a franchise to continue operating and maintaining its utility infrastructure within the County.

NOW THEREFORE, the Parties agree to the following terms of a water, sewer, reclaimed, and stormwater system franchise agreement:

**I. DEFINITIONS**

For the purposes of this franchise, terms, phrases, words, and their derivations not defined herein that are defined in Title 12 of the Mason County Code or the Manual on Accommodating Utilities in the Mason County Right-of-Way published by the County Engineer (the “Manual”), shall have the same meaning or be interpreted as provided in Title 12 of the Mason County Code or the Manual. Words not defined here, in Title 12 of the Mason County Code or the Manual shall have their ordinary meaning. A reference to Title 12 of the Mason County Code or the Manual refers to the same as may be amended, revised, updated, re-enacted or re-codified from time to time.

**II. GRANT OF FRANCHISE**

The County hereby grants to the City a non-exclusive franchise to construct, operate and maintain water, sewer, reclaimed water, and stormwater system utility facilities in, over, along and under county rights-of-way in Mason County, Washington, as set forth in attached Exhibit “B” (Franchise Area).

The County’s grant of Franchise shall authorize the City to enter upon the rights-of-way located within the Franchise Area for the purpose of installing, constructing, maintaining, repairing, replacing, adjusting, relocating and operating the water system utility facilities.

Such grant is subject to and must be exercised in strict accordance with and subject to this franchise, Title 12 of the Mason County Code, the Manual and all applicable laws, rules, regulations and ordinances. The City’s exercise of any rights granted pursuant to the franchise is subject to the exercise of the County’s police powers, and other regulatory powers as it may have or obtain in the future. No rights shall pass to the City by implication. This franchise does not include permission to disturb or perform construction in the road rights-of-way for any purposes others than the purposes expressly described herein. The City shall notify the County of any change in use or condition of the utility facilities that may affect the status of the utility facilities or the impact of the utility facilities upon the road rights-of-way.

### III. UTILITY PERMIT REQUIRED

The City shall not commence or perform work (hereafter “Work”) to install, construct, maintain, repair, replace, adjust, connect, disconnect, rebuild, or relocate its utility facilities within the rights-of-way, without first applying for, paying all associated fees, and obtaining a utility permit as required pursuant to Title 12 of the Mason County Code. In any utility permit so issued, the County may impose, as a condition of the granting the utility permit, such conditions and regulations as may be necessary for the protection, preservation and management of the rights-of-way, including, by way of example and not limitation, for the purpose of protecting any structures in the rights-of-way, maintaining proper distance from other utilities, ensuring the proper restoration of such rights-of-way and structures, and for the protection of the County and the public and the continuity of pedestrian and vehicular traffic.

The City shall first file with the County Engineer or designee its application for a utility permit to do such Work together with plans and specifications in triplicate showing at a minimum:

A. The position, depth and location of all such utility facilities sought to be constructed, laid, installed or erected at that time, showing their relative position to existing county roads, rights-of-way or other county property upon plans drawn to scale, hereinafter collectively referred to as the “map of definite location”;

B. The class and type of material and equipment to be used, manner of excavation, construction, installation, backfill, erection of temporary structures, erection of permanent structures, traffic control, traffic turnouts and road obstructions;

C. The manner in which the utility facility is installed;

D. Measures taken to preserve safe and free flow of traffic;

E. Structural integrity of the roadway, bridge, or other structure;

F. Specifications for the restoration of the county road, right-of-way or other county property in the event that the road right of way will be disturbed by the Work; and

G. Provision for ease of future road maintenance and appearance of the roadway.

Provision shall be made for known or planned expansion of the utility facilities, particularly those located underground or attached to bridges or other structures within the road right-of-way.

The location, alignment and depth of the utility facilities shall conform with said map of definite location, except in instances in which deviation may be allowed thereafter in writing by the County Engineer pursuant to application by City.

All such Work shall be subject to the approval of and shall pass the inspection of the County



Engineer or designee. The City shall pay all costs of and expenses incurred in the examination, inspection and approval of such work on account of granting the said utility permits.

#### IV. RESTORATION OF RIGHT OF WAY

In any Work which disturbs or causes damage to the rights-of-way subject to this franchise, public or private property, the City shall at its own expense and with all convenient speed, complete the work to repair and restore the right-of-way, or the public or private property so disturbed or damaged, and leave the same in as good or better condition as before the Work was commenced, to the reasonable satisfaction of the County Engineer. The City shall pay all costs of and expenses incurred in the examination, inspection and approval of such restoration or repair.

The County Commissioners and/or County Engineer may at any time do, order or have done any and all work that they consider necessary to restore to a safe condition such County road right-of-way or other County property left by the City or its agents in a condition dangerous to life or property, and the City, upon demand, shall pay to the County all costs of such work.

#### V. CITY WORK IN RIGHT OF WAY

City expressly agrees and understands that, with regard to Work within the rights-of-way:

A. All of City's utility facilities and Work within the road rights-of-way or other County property shall be in compliance with the provisions of Title 12 MCC, the Manual, the administrative regulations adopted by the County Engineer, other County established requirements for placement of utility facilities in road rights-of-way, including the specific location of utility facilities in the road rights-of-way, and all applicable laws, rules, regulations and ordinances;

B. In preparing plans and specifications for Work of utility facilities in the rights-of-way the City shall use the Manual. Prior to commencement of work in the rights-of-way, City shall submit such plans and specifications to the Mason County Engineer for review and approval together with adequate exhibits depicting existing or proposed location of the utility facility in relation to the road, including right-of-way or easement lines; relationship to currently planned road revisions, if applicable; and all locations and situations for which deviations in depth of cover (including the proposed method of protection) or other locational standards that are anticipated;

C. All Work to utility facilities located within the road rights-of-way or other county property subject to this franchise shall be done in such a manner as not to interfere, other than in ways approved by the County, with the construction, operation and maintenance of other utilities, public or private, drains, drainage ditches and structures, irrigation ditches and structures, located therein, nor with the grading or improvements of such County roads, rights-of-way or other County property;

D. The owners and operators of all utility facilities (public or private) installed in the Franchise Area or other county property prior in time to the utility facilities of the City, shall have preference as to the alignment and location of such utilities so installed with respect to the City.

Such preference shall continue in the event of the necessity of relocating or changing the grade of any such county road or right-of-way;

E. The City shall perform the Work and operate its utility facilities in a manner that minimizes interference with the use of the rights-of-way by others, including others that may be installing utility facilities; and

F. The County may require that City's utility facilities be installed at a particular time, at a specific place, or in a particular manner as a condition of access to a particular right-of-way; may deny access if a City is not willing to comply with the County's requirements; and may remove, or require removal of, any utility facility that is not installed in compliance with the requirements established by the County, or which is installed without prior County approval of the time, place, or manner of installation and charge the City for all the costs associated with removal; and may require City to cooperate with others to minimize adverse impacts on the rights-of-way through joint trenching and other arrangements.

G. The County may inspect the utility facilities at any time reasonable under the circumstances to ensure compliance with this franchise and applicable law, including to ensure that the utility facilities are constructed and maintained in a safe condition. If an unsafe condition is found to exist, the County, in addition to taking any other action permitted under applicable law, may order the City, in writing, to make the necessary repairs and alterations specified therein forthwith to correct the unsafe condition on a time-table established by the County which is reasonable in light of the unsafe condition. The County has the right to correct, inspect, administer, and repair the unsafe condition if the City fails to do so, and to charge the City therefore. The right of the County to conduct such inspections and order or make repairs shall not be construed to create an obligation therefore, and such obligation to construct and maintain its utility facilities in a safe condition shall at all times remain the sole obligation of the City.

H. When required by the County, the City shall make information available to the public regarding any work involving the ongoing installation, construction, adjustment, relocation, repair or maintenance of its utility facilities sufficient to show (1) the nature of the work being performed; (2) where it is being performed; (3) its estimated completion date; and (4) progress to completion.

I. The City is placed on notice that fiber optic, communications, power, control systems, other types of cables, and pipelines may be buried on the right of way. Before beginning any underground work, the City will contact the appropriate personnel to have such facilities located and make arrangements as to protective measures that must be adhered to prior to the commencement of any work within the rights-of-way. In addition to the liability terms elsewhere in this Agreement, the City shall indemnify and hold the County and its elected and appointed officers, employees and agents harmless against and from all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of the City, its contractor, agents and/or employees, that cause or in any way or degree contribute to (1) any damage to or destruction of any such facilities by the City, and/or its contractor, agents and/or employees, on the County's property, (2) any injury to or death of any person employed by or on behalf of any entity, and/or

its contractor, agents and/or employees, on the rights-of-way, and/or (3) any claim or cause of action for alleged loss of profits or revenue, or loss of service, by a customer or user of services or products of such company(ies) (collectively “Liabilities” for purposes of this Section V.I). The only Liabilities with respect to which the City’s obligation to indemnify the County and its elected and appointed officers, employees and agents does not apply are Liabilities to the extent arising out of, caused by or resulting from the negligence of the County, and its elected and appointed officers, employees and agents and Liabilities that by law the County and its elected and appointed officers, employees and agents for which the County cannot be indemnified.

J. The City shall continuously be a member of the State of Washington one number locator service under RCW 19.122, or an approved equivalent, and shall comply with all such applicable rules and regulations.

K. Except in the event of emergency as described below, the City and its Agents may not enter upon the Franchise Area to perform work for which a utility permit is not required, unless and except upon two-business days notice to the County Engineer.

L. In the event of an emergency involving the threat of imminent harm to persons or property, and for purposes of taking immediate corrective action, the City and its agents may disturb or perform and maintenance activities in the Franchise Area without advance notice to the County as long as such entry is for the sole purpose of addressing the emergency; provided however, that if any entry for such purposes would require issuance of a utility permit, the City shall give the County verbal or telephonic notice of the places where and the manner in which entry is required prior to such entry, promptly followed by written notice. In all cases, notice to the County shall be given as far in advance as practical prior to disturbing the right-of-way or as soon as practicable after entry upon the right-of-Way.

M. The City shall promptly reimburse the County for its reasonable and direct costs incurred in responding to an emergency that is caused, created by or attributable to the presence, construction, maintenance, repair, or operation of the City’s utility facilities in the rights-of-way.

N. If, during installation, construction, relocation, realignment, adjustment, maintenance, or repair of the City’s utility facilities in the rights-of-way, the City or its agents discover cultural or historic artifacts, the City shall immediately notify the County of said discovery and shall protect such artifacts in a manner as specified by the County.

## VI. PROTECTION OF PUBLIC

All work done under this franchise shall be done in a thorough and workman-like manner. In the performance of Work within or near the rights-of-way, including without limitation, the opening of trenches and the tunneling under county roads, rights-of way or other county property, the City shall leave such trenches, ditches and tunnels in such a way as to interfere as little as possible with public travel and shall take all due and necessary precautions to guard the same, so that damage or injury shall not occur or arise by reason of such Work; and where any of such

trenches, ditches and tunnels are left open at night, the City shall place warning lights, barricades and other appropriate protective devices at such a position as to give adequate warning of such Work. The City shall be defend, indemnify, and hold the County harmless against any claim for injury to person or persons or damage to property sustained arising out of its carelessness or neglect, or through any failure or neglect to properly guard or give warning of any trenches, ditches or tunnels dug or maintained by the City.

## VII. POLICE POWERS

The County, in granting this franchise, does not waive any rights which it now has or may hereafter acquire with respect to county roads, rights-of-way or other county property and this franchise shall not be construed to deprive the county of any powers, rights or privileges which it now has or may hereafter acquire to regulate the use of and to control the county roads, rights-of-way and other county property covered by this franchise. The County retains the right to administer and regulate activities of the City up to the fullest extent of the law. The failure to reserve a particular right to regulate, or reference a particular regulation, shall not be interpreted by negative implication or otherwise to prevent the application of a regulation to the City.

## VIII. RELOCATION

City shall, in the course of any Work, comply with the following requirements:

A. The City shall, by a time specified by the County, protect, support, temporarily disconnect, relocate, or remove any of its utility facilities when required by the County by reason of traffic conditions; public safety; road right-of-way construction by the County; road right-of-way repair (including resurfacing or widening); change of right-of-way grade by the County; the County's construction, installation, or repair of County-owned sewers, drains, water pipes, power lines, signal lines, tracks, communications system, other public work, public facility, or improvement of any government-owned utility; or for any other purpose where the County work involved would be aided by the removal or relocation of the utility facilities. Collectively, such matters are referred to below as the "Public Work."

The City acknowledges and understands that any delay by the City in performing the herein described work may delay, hinder, or interfere with the work performed by the County and its contractors and subcontractors done in furtherance of such Public Work and result in damage to the County, including but not limited to delay claims. The City shall cooperate with the County and its contractors and subcontractors to coordinate such City work to accommodate the Public Work project schedules to avoid delay, hindrance of, or interference with the Public Work. The County shall make available to the City a copy of the Six Year Transportation Program and the County's annual construction program after adoption each year. It is anticipated these programs will aid the City in planning construction programs.

B. The City has a duty to protect its utility facilities from work performed by the County within the road rights-of-way. The rights granted to the City herein do not preclude the County, its employees, contractors, subcontractors, and agents from blasting, grading, excavating, or doing



other necessary road work contiguous to the City's utility facilities; providing that, the City shall be given a minimum of forty-eight (48) hours notice of said blasting or other work in order that the City may protect its utility facilities.

C. In the event of an emergency, or where the utility facility creates or is contributing to an imminent danger to health, safety, or property, the County may protect, support, temporarily disconnect, remove, or relocate any or all parts of the utility facility without prior notice, and charge the City for costs incurred.

D. If any Person or entity that is authorized to place facilities in the road right of way requests the City to protect, support, temporarily disconnect, remove, or relocate the City's utility facilities to accommodate the construction, operation, or repair of the facilities of such other person, the City shall, after 30 days' advance written notice, or within such other length of time as is desired and reasonable under the circumstances, take action to effect the necessary changes requested; provided that, if such project is related to or competes with City's service, or if the effect of such changes would be to permanently deprive City of the beneficial enjoyment of this franchise for its intended purposes through interference with the operation of City's utility facilities or otherwise, City shall not be required to relocate its utility facilities. Unless the matter is governed by a valid contract or a state or federal law or regulation, or unless the City's utility facilities were not properly installed, the reasonable cost of the same shall be borne by the Person requesting the protection, support, temporary disconnection, removal, or relocation at no charge to the City or County, even if the County makes the request for such action.

The County will accept liability for direct and actual damages to the City that are the result of the negligence of Mason County, its trustees, officers, employees, contractors, subcontractors or agents while performing County improvement or Public Works projects enumerated in this franchise agreement under Section VIII. Direct and actual damages are specifically limited to physical damage to properly installed and located infrastructure of the City and the cost to repair such physical damage. The County retains the right to assert all applicable defenses in the event of a dispute including contributory negligence on the part of the City. The County shall in no way be liable for incidental damages claimed to arise from such actions.

All Work to be performed by the City under this section shall pass the inspection of the County Engineer. The City shall pay all costs of and expenses incurred in the examination, inspection and approval of such work.

## IX. PRESERVATION OF MONUMENTS/MARKERS

Before any work is performed under this franchise which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads and all other surveys, the City shall reference all such monuments and markers. The reference points shall be so located that they will not be disturbed during the City's operations under this franchise. The method of referencing these monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit, and as directed by the County Engineer. The cost of monuments or other markers lost, destroyed, or disturbed, and the expense of replacement by

approved monuments shall be borne by the City.

A complete set of reference notes for monument and other ties shall be filed with the office of the Mason County Engineer.

#### X. VACATION OF ROAD RIGHT-OF-WAY

If at any time the County shall vacate any County road, right-of-way or other County property which is subject to rights granted by this franchise and said vacation shall be for the purpose of acquiring the fee or other property interest in said road, right-of-way or other county property for the use of Mason County, in either its proprietary or governmental capacity, then the Board of Mason County Commissioners may, at its option, and by giving thirty (30) days written notice to the City, terminate this franchise with reference to such county road, right-of-way or other county property so vacated, and the County of Mason shall not be liable for any damages or loss to the City by reason of such termination. Provided, however, that the County shall reserve an easement for the City facility in the property being vacated, which easement shall preserve the City's ability to maintain, construct, and replace its facilities as needed. If City facilities must be disconnected, relocated, or removed due to the vacation of a County right-of-way for the benefit of a private property owner, the County shall ensure that any benefitted private property owners pay the full cost of relocating the facilities and furnish sufficient easements to accommodate the relocated utilities.

#### XI. FINANCIAL SECURITY

A. Insurance Except as otherwise provided herein, the City shall maintain for itself throughout the entire period any part of the City's utility facilities are located in the Franchise Area, adequate insurance to protect the Parties and their elected and appointed officers, agents, employees against all liability arising out of City's use and occupancy of the Franchise Area or any part thereof. This obligation shall require the City to maintain insurance at least in the following amounts:

1. **COMMERCIAL GENERAL LIABILITY** insurance to cover liability, bodily injury, and property damage. The Commercial General Liability insurance shall be written on an occurrence basis, with an aggregate limit location endorsement for the Franchise Area, and shall provide coverage for any and all costs, including defense costs, and losses and damages resulting from personal injury, bodily injury and death, property damage, products liability and completed operations. Such insurance shall include blanket contractual coverage, including coverage for the Franchise as now or hereafter amended and specific coverage for the indemnity provisions set forth herein. Coverage must be written with the following limits of liability:

Bodily and Personal Injury & Property Damage

\$ 1,000,000 per Occurrence

\$ 2,000,000 aggregate

2. **WORKERS' COMPENSATION** insurance shall be maintained to comply with

statutory limits for all employees, and in the case any work is sublet, the City shall require its contractors and subcontractors similarly to provide workers' compensation insurance for all the employees. The City shall also maintain, during the life of this policy, employer's liability insurance; provided that this obligation shall not apply to any time period during which City has no employees. The following minimum limits must be maintained:

Workers' Compensation	Statutory
Employer's Liability	\$ 1,000,000 each occurrence

3. COMPREHENSIVE AUTO LIABILITY insurance shall include owned, hired, and non-owned vehicles operated by City employees on an occurrence basis with coverage of at least \$2,000,000 per occurrence.

If the City, its contractors, or subcontractors do not have the required insurance, the County may require such entities to stop operations until the insurance is obtained and approved.

Certificates of Insurance reflecting evidence of the required insurance and approved by the County's Risk Manager for the GENERAL LIABILITY policies described above, shall be sent to the County's risk manager. The certificate shall be filed with the acceptance of the franchise, and annually thereafter, and as provided below. All coverage shall be listed all on one certificate with the same expiration dates.

The certificates shall contain a provision that coverages afforded under these policies will not be canceled until at least 30 days' prior written notice has been given to the County.

In the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the period of the franchise, then, in that event, the City shall furnish, at least 30 days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage has been or will be obtained prior to any such lapse or termination during the balance of the period of the franchise.

The County reserves the right, during the term of the franchise, to require any other insurance coverage or adjust the policy limits as it deems reasonably necessary utilizing sound risk management practices and principals based upon the loss exposures.

Each insurance policy required pursuant to this franchise shall be primary and non-contributing as respects any coverage maintained by the County and shall include an endorsement reflecting the same. Any other coverage maintained by County shall be excess of this coverage herein defined as primary and shall not contribute with it. The certificate of insurance must reflect that the above wording is included in all such policies.

Each insurance policy obtained pursuant to this franchise shall be issued by financially sound insurers who may lawfully do business in the State of Washington with a financial rating at all times during coverage of no less than rating of "A" and a class of "X" or better in the latest edition of "Best's Key Rating Guide" published by A.M. Best Company, or such other financial rating or

rating guide approved in writing by the County's risk manager. In the event that at any time during coverage, the insurer does not meet the foregoing standards, City shall give prompt notice to the County and shall seek coverage from an insurer that meets the foregoing standards. The County reserves the right to change the rating or the rating guide depending upon the changed risks or availability of other suitable and reliable rating guides.

Comprehensive general liability insurance policies and coverage obtained pursuant to this franchise shall include an endorsement (**standard ISO form CG 24-17**) deleting all exclusions for work or incidents occurring within any distance from a railroad track or railroad property, or on, over, or under a railroad track.

Insurance policies required pursuant to this franchise shall have no non-standard exclusions unless approved of by the County Risk Manager or designee.

City and City's Contractors' insurers, through policy endorsement, shall waive their rights of subrogation against the County for all claims and suits. The certificate of insurance must reflect this waiver of subrogation rights endorsement.

Commercial General Liability Insurance policies and coverage required herein of public utility operators may include a reasonable deductible or self-insured retention; provided, however, that as to any Loss or Damage covered as provided herein, if City elects to include any deductible or self-insured retention, City shall itself directly cover, in lieu of insurance, any and all County liabilities that would otherwise in accordance with the provisions of this Franchise be covered by City's insurance if City elected not to include a deductible or self-insured retention. Such direct coverage by City shall be in an amount equal to the amount of City's actual deductible or self-insured retention. City shall be required to provide a certification of self-insurance retention to the county in a form and content acceptable to the County engineer.

#### B. Performance/Payment Bond.

For any construction or maintenance work that is let by contract, the City may satisfy the performance bond requirement of this Section by demonstrating that the project is appropriately bonded in accordance with State law prior to work commencing

#### C. Limitation of Liability.

To the fullest extent permitted by law, the City shall, and shall cause its contractor(s) to release, indemnify, defend and hold harmless the county and the county's legal representatives, officer (elected or ), appointed) employees and agents (collectively, "indemnitees") for, from and against any and all claims, liabilities, fines, penalties, cost, damages, losses, liens, causes of action, suits, demands, judgments and expenses (including, without limitations, court costs, attorneys' fees and costs of investigation, removal and remediation and governmental oversight costs), environmental or otherwise (collectively "liabilities") of any nature, kind, or description, of any person or entity, directly or indirectly, arising out of, resulting from the City's performance of its rights and duties



under this franchise, or from the presence of the City's utilities in the right-of-way.

Upon written notice from the county, City agrees to assume the defense of any lawsuit or other proceeding brought against any indemnitee by any entity, relating to any matter covered by this franchise for which City has an obligation to assume liability for and/or save and hold harmless any indemnitee. City shall pay all cost incident to such defense, including, but not limited to, attorneys' fees, investigators' fees, litigation and appeal expenses, settlement payments and amounts paid in satisfaction of judgments. City will fully satisfy said judgment within ninety (90) days after said suit or action shall have finally been determined if determined adversely to Mason County. Upon the City's failure to satisfy said judgment within the ninety (90) day period, this franchise shall at once cease and terminate.

Acceptance by the County of any Work performed by the City at the time of completion shall not be grounds for avoidance of this covenant.

## XII. FRANCHISE NONEXCLUSIVE

This franchise shall not be deemed to be an exclusive franchise. It shall in no manner prohibit the County from granting other utilities under, along, across, over and upon any of the County roads, rights-of-way or other County property subject to this franchise and shall in no way prevent or prohibit the County from constructing, altering, maintaining or using any of said roads, rights-of-way, drainage structures or facilities, irrigation structures or facilities, or any other county property or affect its jurisdiction over them or any part of them with full power to make all necessary changes, relocations, repairs, maintenance, etc., the same as the county may deem fit.

## XIII. ANNEXATION

Whenever any of the County roads, rights-of-way or other county property as designated in this franchise, by reason of the subsequent incorporation of any city, or extension of the limits of any city, shall fall within the city limits and shall by operation of law or otherwise terminate in respect to the said roads, rights-of-way or other county property so included with city or town limits; this franchise shall continue in force and effect to all county roads, rights-of-way or other county property not so included in city or town limits.

## XIV. REMEDIES FOR DEFAULT

A. Remedies. The County has the right to exercise any and all of the following remedies, singly or in combination, in the event of Default. "Default" shall mean any failure of City or its agents to keep, observe, or perform any of City's or its agent's duties or obligations under this franchise and continue in this failure after receiving notice of default from the County and a reasonable time to cure the default:

1. Damages. City shall be liable for any and all damages incurred by County as a result of the City's Default.

2. Specific Performance. County shall be entitled to specific performance of each and every obligation of City under this franchise without any requirement to prove or establish that County does not have an adequate remedy at law. The City hereby waives the requirement of any such proof and acknowledges that County would not have an adequate remedy at law for City's commission of an Event of Default hereunder.

3. Injunction. County shall be entitled to restrain, by injunction, the actual or threatened commission or attempt of an Event of Default and to obtain a judgment or order specifically prohibiting a violation or breach of this Agreement without, in either case, being required to prove or establish that County does not have an adequate remedy at law. The City hereby waives the requirement of any such proof and acknowledges that County would not have an adequate remedy at law for the City's commission of an Event of Default hereunder.

4. Alternative Remedies. Neither the existence of other remedies identified in this franchise nor the exercise thereof shall be deemed to bar or otherwise limit the right of the County to commence an action for equitable or other relief, and/or proceed against the City and any guarantor for all direct monetary damages, costs and expenses arising from the Default and to recover all such damages, costs and expenses, including reasonable attorneys' fees. Remedies are cumulative; the exercise of one shall not foreclose the exercise of others.

## XV. SUBSEQUENT ACTION

In the event that after this franchise becomes effective, (a) there is a change in the law which broadens the authority of the County or the City with respect to any act permitted or authorized under this franchise; or (b) the County or the City believe that amendments to this franchise are necessary or appropriate, then the County of Mason and the City agree to enter into good faith negotiations to amend this franchise so as to enable the Parties to address, in a manner reasonably acceptable to all Parties, such change or other development which formed the basis for the negotiations. The Parties recognize that the purpose of the negotiations would be to preserve, to the maximum extent consistent with law, the scope and purpose of this franchise.

Mason County reserves for itself the right at any time upon ninety (90) days written notice to the City, to so change, amend, modify or amplify any of the provisions or conditions herein enumerated to conform to any state statute or county regulation, relating to the public welfare, health, safety or highway regulation, as may hereafter be enacted, adopted or promulgated. This franchise may be terminated at such time a public hearing is held by the Board of County Commissioners, and the City's utility facilities are found not to be operated or maintained in accordance with such statute or regulation, after providing the City a reasonable amount of time, which may exceed 90 days depending on the circumstances, to conform its facilities to the statute or regulation.

## XVI. ACCEPTANCE

The City shall execute and return to the County a signed acceptance of the franchise granted

hereunder. The acceptance shall be in the form of the acceptance attached hereto as Exhibit "A", and in accepting the franchise, the City warrants that it has carefully read the terms and conditions of this franchise and accepts all of the terms and conditions of this franchise and agrees to abide by the same and acknowledges that it has relied upon its own investigation of all relevant facts, that it has had the assistance of counsel, that it was not induced to accept a franchise, that this franchise represents the entire agreement between the City and the County. In the event the City fails to submit the countersigned ordinance and acceptance as provided for herein within the time limits set forth in this section, the grant herein is and shall become null and void.

## XVII. MISCELLANEOUS PROVISIONS

A. Controlling Law/Venue. Any disputes concerning the application or interpretation of any of the provisions of this franchise shall be governed by the laws of the State of Washington. Venue of any action or arbitration brought under this franchise shall be consistent with RCW 36.01.050.

B. Liens. City shall promptly pay and discharge any and all liens arising out of any Work done, suffered or permitted to be done by City on any Franchise Area.

C. Waiver. No waiver by either party of any provision of this franchise shall in any way impair the right of such party to enforce that provision for any subsequent breach, or County's right to enforce all other provisions of this franchise.

D. Attorney's Fees. If any action at law or in equity is necessary to enforce or interpret the terms of this franchise, the Parties shall bear their own costs, including attorney fees.

E. Amendment. This franchise may be amended only by a written contract signed by authorized representatives of City and County.

F. Severability. If any provision of this franchise is held to be illegal, invalid or unenforceable under present or future laws, such provision will be fully severable and this franchise will be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions hereof will remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision herein, there will be added automatically as a part of this franchise; a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

H. Notices. Any notice contemplated, required, or permitted to be given under this franchise shall be sufficient if it is in writing and is sent either by: (a) registered or certified mail, return receipt requested; or (b) a nationally recognized overnight mail delivery service, to the Party and at the address specified below, except as such Party and address may be changed by providing notice to the other Party no less than thirty (30) days' advance written notice of such change in address.

City: City of Shelton  
525 West Cota Street  
Shelton WA 98584-5034  
Attn: City Manager and Public Works Director

Grantor: County of Mason Public Works  
100 Public Works Drive  
Shelton, WA 98584

I. Approvals. Nothing in this franchise shall be deemed to impose any duty or obligation upon the County to determine the adequacy or sufficiency of the City's plans and specifications or to ascertain whether the City's proposed or actual construction, testing, maintenance, repairs, replacement, relocation, adjustment or removal is adequate or sufficient or in conformance with the plans and specifications reviewed by the County. No approval given, inspection made, review or supervision performed by the County pursuant to this franchise shall constitute or be construed as a representation or warranty express or implied by the County that such item approved, inspected, or supervised, complies with laws, rules regulations or ordinances or this franchise or meets any particular standard, code or requirement, or is in conformance with the plans and specifications, and no liability shall attach with respect thereto. County and inspections as provided herein, are for the sole purpose of protecting the County's rights as the owner or manager of the road rights-of-way and shall not constitute any representation or warranty, express or implied, as to the adequacy of the design, construction, repair, or maintenance of the utility facilities, suitability of the Franchise Area for construction, maintenance, or repair of the utility facilities, or any obligation on the part of the County to insure that work or materials are in compliance with any requirements imposed by a governmental entity. The County is under no obligation or duty to supervise the design, construction, installation, relocation, adjustment, realignment, maintenance, repair, or operation of the utility facilities.

J. Force Majeure. Neither Party hereto shall be liable to the other Party for any failure to perform an obligation set forth herein to the extent such failure is caused by war, act of terrorism or an act of God, provided that such Party has made and is making all reasonable efforts to perform such obligation and minimize any and all resulting loss or damage.

K. Construction. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the Party or Parties may require. The provisions of this franchise shall be construed as a whole according to their common meaning, except where specifically defined herein, not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this franchise.

L. Incorporation by Reference. All exhibits annexed hereto at the time of execution of this franchise or in the future as contemplated herein, are hereby incorporated by reference as though fully set forth herein.



M. Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Washington, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday in the State of Washington, the period shall be extended to include the next day which is not a Saturday, Sunday, or legal holiday in the State of Washington.

N. Entire Agreement. This franchise is the full and complete agreement of County and City with respect to all matters covered herein and all matters related to the use of the Franchise Area by the City and the City's Contractors, and this franchise supersedes any and all other agreements of the Parties hereto with respect to all such matters, including, without limitation, all agreements evidencing the franchise.

O. No Recourse. Without limiting such immunities as the County or other persons may have under applicable law, the City shall have no monetary recourse whatsoever against the County or its officials, boards, commissions, agents, or employees for any loss or damage arising out of the County's exercising its authority pursuant to this Franchise or other applicable law.

P. Responsibility for Costs. Except as expressly provided otherwise, any act that the City is required to perform under this franchise shall be performed at its cost. If the City fails to perform work that it is required to perform within the time provided for performance, the County may perform the work and bill the City. The City shall pay the amounts billed within 30 days.

Q. Work of Contractors and Subcontractors. Work by contractors and subcontractors is subject to the same restrictions, limitations, and conditions as if the work was performed by the City. The City shall be responsible for all work performed by its contractors and subcontractors, and others performing work on its behalf, under its control, or under authority of its utility permit, as if the work were performed by it and shall ensure that all such work is performed in compliance with this franchise, Title 12 MCC, the Manual and other applicable law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is the City's responsibility to ensure that contractors, subcontractors, or other Persons performing work on the City's behalf are familiar with the requirements of the franchise, Title 12 MCC, the Manual, and other applicable laws governing the work performed by them.

R. Term of Franchise and Survival of Terms. The term of this Franchise shall be for a period of 10 years with automatic renewal at the end of the 10-year term unless either party gives the other written notice of termination at least 30 days prior to the end of the relevant term from and after the date of the entry of this order for the purposes, at the location(s), and upon the express terms and conditions as described herein.

Upon the expiration, termination, revocation or forfeiture of the franchise, the City shall no longer have the right to occupy the franchise area for the purpose of providing services authorized herein. However, the City's obligations under this franchise to the County shall survive the expiration, termination, revocation or forfeiture of these rights according to its terms for so long as the City's utility facilities shall remain in whole or in part in the road rights of way. By way of illustration and not limitation, City's obligations to indemnify, defend and hold harmless the County, provide

insurance and a performance/payment bond pursuant to Section XI and City's obligation to relocate its utility facilities pursuant to Section VIII, shall continue in effect as to the City, notwithstanding any expiration, termination, revocation or forfeiture of the franchise, except to the extent that a County-approved transfer, sale, or assignment of the utility system is completed, and another entity has assumed full and complete responsibility for the utility system or for the relevant acts or omissions.

S. Warranties. By acceptance of this franchise, City warrants:

1. That City has full right and authority to enter into and perform this Franchise in accordance with the terms hereof, and by entering into or performing this Franchise, City is not in violation of its charter or by-laws, or any law, regulation, or agreement by which it is bound or to which it is subject; and

2. That the execution, delivery, and performance of this Franchise by City has been duly authorized by all requisite City Council action, that the signatories for City of the acceptance hereof are authorized to sign this Franchise.

A hearing before the County Commissioners of Mason County, Washington was held, on the day of \_\_\_\_\_, 20\_\_\_\_, at the hour of 9:15am, under the provisions of RCW 36.55, RCW 80.32.010 and RCW 80.36.040, and it appearing to the Board that notice of said hearing has been duly given as required by law

DATED at Shelton, Washington this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

APPROVED:

BOARD OF COMMISSIONERS  
MASON COUNTY, WASHINGTON

\_\_\_\_\_  
County Engineer

\_\_\_\_\_  
Chair

Approve as to form:

\_\_\_\_\_  
Vice Chair

\_\_\_\_\_  
Chief D.P.A.

\_\_\_\_\_  
Commissioner

# Exhibit A

County Ordinance No. 115-06, effective November 14, 2006.

I, \_\_\_\_\_, am the \_\_\_\_\_ of \_\_\_\_\_

I certify that this franchise and all terms and conditions thereof are accepted by

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY

By: \_\_\_\_\_

Its: \_\_\_\_\_

Tax Id. No. \_\_\_\_\_

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of the \_\_\_\_\_ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

---

Notary Public

Print Name \_\_\_\_\_

My commission expires \_\_\_\_\_

## EXHIBIT B

### Description of Franchise Area

All Mason County maintained roads and right-of-way within City of Shelton city limits and within the City Urban Growth Area.



RECORDED AT THE REQUEST OF  
AND AFTER RECORDING RETURN TO:

County of Mason  
100 West Public Works Drive  
Shelton WA 98584  
Attn: County Engineer

Grantor: COUNTY OF MASON, a legal subdivision of the state of Washington

Grantee: City of Shelton

**Legal Description of Benefited Property**

Legal Description: All Mason County maintained roads and rights-of-way within the City of Shelton city limits and the City Urban Growth Area

CITY OF SHELTON  
525 W. COTA STREET  
SHELTON, WASHINGTON  
(360) 432-5103

TO: Shelton-Mason County Journal

DATE: December 21, 2020

**Please publish the following notice on December 24, 2020**

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**NOTICE OF PUBLIC HEARING  
for the  
CITY OF SHELTON**

**ORDINANCE NO. 1959-1120**

**AN ORDINANCE OF THE CITY OF SHELTON, WASHINGTON,  
ACCEPTING A NON-EXCLUSIVE FRANCHISE AGREEMENT  
BETWEEN MASON COUNTY AND THE CITY OF SHELTON  
FOR THE OPERATIONS AND MAINTENANCE OF WATER,  
SEWER, RECLAIMED WATER, AND STORMWATER  
UTILITIES**

The City Council will conduct a public hearing on January 5, 2021 at 6:00 p.m. to consider adoption of a Franchise Agreement with Mason County. The public is invited to comment on the above referenced matters, or provide written testimony to the City Clerk.

Donna Nault  
City Clerk



## CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item G3)

Touch Date: 12/18/2020  
Brief Date: 01/05/2021  
Action Date: 01/19/2021

Department: Finance  
Presented By: Aaron BeMiller

### APPROVED FOR COUNCIL PACKET:

Action Requested:

#### ROUTE TO:

#### REVIEWED:

PROGRAM/PROJECT TITLE:  
**Amending Shelton Municipal  
Code Chapter 3.52**

ATTACHMENTS:  
**Ordinance No. 1960-1220**

☐ Dept. Head

☒ Finance Director

☒ Attorney

☒ City Clerk

☒ City Manager

☒ Ordinance

☐ Resolution

☒ Motion

☐ Other

### DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

This Ordinance will update City of Shelton Code Chapter 3.52.090 by providing an exemption to B&O tax for particular non-profit organizations.

Currently, the City provides a B&O tax exemption non-profit organizations exempt from federal income tax under Section 501(c)3. This legislation would change this exemption to all organizations exempt under Section 501(c) of the Internal Revenue Code. This change would be made retroactive to January 1, 2020.

The City follows the B&O Tax Model Ordinance, however, the Model Ordinance allows cities to deviate from the non-mandatory provisions of the Ordinance. As such, the City maintains compliance with the Model Ordinance with this change.

### ANALYSIS/OPTIONS/ALTERNATIVES:

N/A

### BUDGET/FISCAL INFORMATION:

N/A

### PUBLIC INFORMATION REQUIREMENTS:

Information can be obtained from the City Clerk.

### STAFF RECOMMENDATION/MOTION:

"I move that we approve this Ordinance as presented updating Shelton Municipal Code Chapter 3.52.090 to provide an exemption to B&O Tax for qualifying 501 (c) organizations".

## **ORDINANCE NO. 1960-1220**

### **AN ORDINANCE OF THE CITY OF SHELTON, WASHINGTON, RELATING TO EXEMPTIONS FROM BUSINESS AND OCCUPATION TAX; AMENDING SHELTON MUNICIPAL CODE CHAPTER 3.52 ENTITLED “BUSINESS AND OCCUPATION TAX”.**

**WHEREAS**, the City of Shelton WA, adopted the Model Ordinance for future assessment and collection of business and occupation taxes as required by all municipal governments assessing business and occupation tax; and

**WHEREAS**, the intent of the Model Ordinance is to provide uniformity between cities for business and occupation tax rules; and

**WHEREAS**, cities may pass legislation which deviates from non-mandatory provisions of the Model Ordinance; and

**WHEREAS**, the City desires to expand its exemption for 501(c)(3) tax-exempt nonprofit organizations to apply to all 501(c) tax-exempt nonprofit organizations, retroactive to January 1, 2020; and

**NOW, THEREFORE**, be it ordained by the City Council of the City of Shelton, Washington, as follows:

#### **Section 1.**

**Chapter 3.52.090 A. of the Shelton Municipal Code for Business and Occupation Tax is amended as follows:**

A. Nonprofit Corporations or Nonprofit Organizations. This chapter shall not apply to nonprofit organizations exempt from federal income tax under Section 501(c) of the Internal Revenue Code, as hereafter amended, except with respect to retail sales of such organizations.

#### **Section 2.**

All other sections and language of Chapter 3.52, Business and Occupation Tax remain in full force and effect.

#### **Section 3**

Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance.

#### **Section 4.**

Savings Clause. Chapter 3.52 of the Shelton Municipal Code shall remain in effect until such date as this ordinance becomes effective.



**Section 5.**

Effective Date. This ordinance shall take effect five days after passage and publication as required by law. It shall be retroactive to January 1, 2020.

INTRODUCED this 5th day of January 2021.

ADOPTED by the City Council of the City of Shelton, Mason County, Washington at a regular open public meeting held the 19<sup>th</sup> day of January 2021.

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Kevin Dorcy, Mayor

AUTHENTICATED:

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Donna Nault, City Clerk



## CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item G4)

Touch Date: 12/15/2020  
Brief Date: 01/05/2021  
Action Date: 01/19/2021

Department: Finance  
Presented By: Aaron BeMiller

### APPROVED FOR COUNCIL PACKET:

Action Requested:

#### ROUTE TO:

#### REVIEWED:

PROGRAM/PROJECT TITLE:  
**2021 Master Fee Schedule  
Update**  
ATTACHMENTS:  
**- Resolution No. 1184-1120  
- Exhibit A**

☐ Dept. Head

☒ Finance Director

☐ Attorney

☒ City Clerk

☒ City Manager

12/24/2020

12/28/2020

12/28/2020

☐

Ordinance

☒

Resolution

☒

Motion

☐

Other

### DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

This Resolution updates the City's Master Fee Schedule for 2021. The City annually updates fees to incorporate changes in the cost to provide certain City services, update services provided for a fee/charge, and eliminate fees for services that are no longer relevant.

Fees and Charges for services, excluding utility services, may be set at a level that recovers all the direct and indirect costs associated with the activity, including administrative overhead.

Utility rates, Utility system charges, and Utility service fees should be set to recover the cost of operating the utility systems, in addition to charging for replacing equipment and adding or expanding facilities to meet regulations, future service demands, and setting aside for unforeseen events such as natural disasters. Revenues for fees and charges must meet the expenses of the system, in addition to setting aside reserves, to keep the utility operating in a fiscally responsible manner. Utility rates should also incorporate the utility's portion of indirect costs.

There has been a change to Exhibit A since Council heard this Resolution on 1/5/21. At the 1/5/21 meeting the City's Master Fee Schedule included CMFE fees. Per the new inter-local agreement, the City will collect the payment for all CMFE fees. However, after continued internal conversations those fees were removed from the City's Master Fee Schedule as those are CMFE fees, not City fees, regardless of which entity collects them. No other changes have been made to the fee schedule from the 1/5/21 meeting.

### ANALYSIS/OPTIONS/ALTERNATIVES:

### BUDGET/FISCAL INFORMATION:

### PUBLIC INFORMATION REQUIREMENTS:

Information can be obtained from the City Clerk.

### STAFF RECOMMENDATION/MOTION:

"I move that we adopt Resolution No. 1184-1120 setting the City's Master Fee Schedule for 2021".

**RESOLUTION NO. 1184-1120**

**A RESOLUTION OF THE CITY OF SHELTON, WASHINGTON  
UPDATING AND ESTABLISHING THE CITY'S MASTER FEE SCHEDULE FOR FISCAL  
YEAR 2021**

**WHEREAS**, it is the general policy of the city to establish fees that are reflective of the cost of services provided by the city; and

**WHEREAS**, it is best practice for the City's Master Fee Schedule be updated annually to reflect changes in the cost for certain City services.

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Shelton, Washington, as follows:

**Section 1. Public Interest.** The City Council for the City of Shelton, Washington finds that it is in the public interest to amend and supersede the previously adopted Master Fee Schedule to address costs associated with providing services.

**Section 2. Supersede previous Resolutions.** This resolution inclusive of Exhibit "A" attached hereto shall supersede in its entirety Resolution 1155-0120 approved by the Shelton City Council and set the City's 2021 Master Fee Schedule.

**Section 3. Adjustments.** The Shelton City Council amends the Master Fee Schedule to include Exhibit "A".

**Section 4. Effective date.** This resolution shall be in full force and effect on February 1, 2021.

**INTRODUCED AND PASSED** by the City Council of the City of Shelton on this 19th day of January 2021.

ATTEST:

\_\_\_\_\_  
Mayor Dorcy

\_\_\_\_\_  
City Clerk Nault



**City of Shelton**  
**525 Cota Street**  
**Shelton, Washington 98584**  
**Master Fee Schedule**  
**RESOLUTION 1184-1120**  
**Exhibit "A"**

<b>General Government.....</b>	<b>pg. 2</b>
<b>Animal Shelter.....</b>	<b>pg. 3</b>
<b>Civic Center.....</b>	<b>pg. 3</b>
<b>Code Enforcement.....</b>	<b>pg. 4</b>
<b>Parks and Recreation.....</b>	<b>pg. 4</b>
<b>Police Department.....</b>	<b>pg. 4</b>
<b>Community Development.....</b>	<b>pg. 5</b>
<b>Planning.....</b>	<b>pg. 5</b>
<b>Building.....</b>	<b>pg. 6</b>
<b>Public Works.....</b>	<b>pg. 14</b>
<b>Sanitary Sewer.....</b>	<b>pg. 15</b>
<b>Reclaimed Water.....</b>	<b>pg. 16</b>
<b>Water.....</b>	<b>pg. 17</b>
<b>Misc. and Grade and Fill.....</b>	<b>pg. 18</b>





***Type of Permit***

***Fee***

*General Government*

Annual Report	\$10.00
Documents provided at Public Hearings	\$0.00 (within one year)
Audio Reproduction (when requested within one year of hearing). *Other than Police	\$10.00 (requested after one year of hearing date)
Video Reproduction * Other than Police	\$10.00
Copies	\$0.15 per page
Scanned copies to electronic format	\$0.10 per page
Files or attachments for electronic delivery	\$0.05 per four (4) attachments
Gigabyte of electronic records for transmission	\$0.10 per gigabyte
Storage media, container, envelope, postage and delivery charge	Actual Cost
R.C.W. 42.56.120 (2) (b) (c) and (e)	
New and renewal of Business License	\$50.00
Sexually Oriented Business License	\$100.00
Sexually Oriented Manager or Entertainer	\$50.00
Taxi Operator License (per operator)	\$40.00
Taxi Vehicle License (per vehicle)	\$40.00
Returned Check charge	\$40.00
VISA/MC chargeback	\$35.00
Special Event Permit	\$35.00 (An additional \$25.00 is due for applications received 25 business days or less prior to the event).
City Special Event services (barricades, garbage, etc.)	\$25.00 (per event, per service)
Displays on City message boards	\$30.00
Map Reproduction	Color 36 x 48 \$18.00



	Color 24 x 36 \$12.00 Special Order 36 x 48 \$30.00 Special Order 24 x 36 \$20.00 Black Line \$1.00 (Per square foot)
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#### *Animal Shelter*

Adoption Fee	\$80.00 (\$100.00)
Adoption Fee with Rabies Vaccine	\$112.50
Animal License (\$5.00 discount for spayed/neutered dogs) No fee for service dogs. Senior citizen 65 yrs. and older 50% off licensing.	\$15.00(\$30.00)
Rabies Vaccination	\$32.50
Surrender of Dog (City residents only)	\$25.00(\$40.00)
Animal Impound (City residents)	First impoundment \$30.00(\$50.00) Second impoundment \$50.00(\$75.00) Third and subsequent impoundment \$100.00(\$150.00) All impound fees shall also be charged unpaid animal license fees.
Boarding fee (over 48 hours)	\$15.00 per day(\$30.00)
Lost license or transfer of license	\$5.00(\$10.00)
Non-resident animal impound fee	First impoundment \$80.00(\$150.00) Second impoundment \$130.00(\$200.00) Third and subsequent impoundment \$180.00(\$250.00)

#### *Civic Center Rental*

Damage Deposit	\$300.00
Kitchen	\$50.00
Black drapery	\$2.00 (per 10 foot section)



Staging	\$10.00 (use of 1 – 4 sections)
Equipment Rental	TV Monitor \$10.00 Multimedia Projector \$20.00
Coffee Service	\$25.00 (per gallon)
Meeting rooms	\$22.00 per hour for each 600 sq. ft.
Main meeting room	\$75.00 per hour

#### *Code Enforcement*

Infraction Issued Fees including site visit(s), photos, file creation, documentation, etc. Plus itemized fees to include attorney costs, additional tracked staff time and costs, title searches, service, court filing fees, which may be included in the city request for abatement cost reimbursement per R.C.W. 35.21.955	\$68.00 minimum
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#### *Parks and Recreation*

Parks Master Plan	\$20.00
Ballfields and Playfields (Callahan Park/Loop Field.	Field Rental \$12.00 per hour Softball Field preparation \$20.00 each field
City recreation programs	Actual cost of program
Refunds	Before first class: %100 Before second class: %80 Before third class: %50 After third class: No refunds
Picnic Shelters	\$12.50 per hour. Two hour minimum, plus applicable fees for garbage, labor, misc.
Commercial Park (Use by individual, company, corporation, business or similar for the purposes of selling, distributing, or promotion.	\$25.00

#### *Police Department*



Fingerprints	\$60.00
Video Reproduction	Time and material
Audio Reproduction	Time and material
Weapons Permit	\$49.25
Weapons Permit renewal	\$32.00
Weapons Permit renewal – late application	\$42.00
Weapons Permit – replacement	\$10.00
Weapons Dealer Permit	\$125.00
Excess Alarm fee	\$25.00 after three (3) false alarms

#### *Community Development – Planning*

Address Assignment	\$100.00
Annexation	\$1,200.00 plus \$40.00 per acre or fraction thereof.
Appeal to the Hearing Examiner	Individual - \$1,000.00 H.O.A. - \$500.00
Boundary Line Adjustment	\$315.00
Comprehensive Plan Amendment	\$2,600.00
Comprehensive Plan document	\$35.00
Conditional Use Permit	\$2,700.00
SEPA	\$300.00
EIS	\$1,400.00 plus consultant costs
Fence	\$75.00 residential \$180.00 commercial
Forest Practices Application	\$350.00
Plat/Binding Site Plan	Preliminary: \$3,300.00 plus \$40.00 per lot Extension: \$200.00 Final: \$500.00 Administrative Amendments: \$200.00 Public Hearing Amendments: \$1,500.00





Planned Unit Development	Preliminary: \$3,000.00 plus \$25.00 per lot Extension: \$200.00 Final: \$500.00 plus \$30.00 per lot Administrative Amendments: \$200.00 Public Hearing Amendments: \$1,500.00
Parcel combination	\$320.00
Pre-submittal conference	\$150.00
RV/Tent Occupancy Application	\$45.00
Short Plat	\$920.00
Site Plan Review	\$1,200.00
Site Plan amendment	\$110.00
Variance Permit	\$2,700.00
Zone Change	\$2,400.00
Zoning Letter	\$45.00
Zoning Ordinance Text Amendment	\$435.00
Signs	\$50.00 when no building permit required \$55.00 per square foot valuation with building permit
<i>Shoreline Specific applications</i>	
Shoreline Management Program document	\$35.00
Shoreline Statement of Exemption	\$170.00
Substantial Development Permit	\$560.00 Public Hearing Required: \$2,300.00
Shoreline Conditional Use Permit	\$2,300.00
Shoreline Variance	\$2,300.00

*Community Development – Building*

After Hours Inspections (Regular business hours 8am to 5pm Monday through Friday).	\$70.00 per hour (two hour minimum)
Re-inspection fee	\$70.00 per hour (one hour minimum)



Inspections for which no fee is specifically indicated.	\$70.00 per hour (one half hour minimum)
Additional plan review required for plan changes.	\$70.00 per hour (one half hour minimum)
Note: For the building fees above, or the total; hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved. Actual costs include administrative and overhead costs.	
Building Valuation  *NOTE: all footnotes of Building Valuation Data as published by ICC shall apply	1) New construction, and remodels greater than 50%: of "R" occupancies The City of Shelton will utilize the International Code Council's "Building Valuation Data Table" on a two year lag as published in the August edition of the Building Safety Journal. The square footage valuations from this table will be implemented on the first day of September following publication and remain in force through August of the following year. 2) Private garages, storage buildings, green houses and similar structures shall be valued as Utility, Miscellaneous 3) Remodels less than 50% shall be valued at 50% of the table value from the ICC Building Valuation Data for occupancy specified.
Bulkheads	\$20.00 per cubic foot
Building Permit  NOTE: Washington State surcharge applies: \$25.00 Commercial, \$6.50 Residential.	Valuation: \$1.00 to \$500.00: <b>\$25.00</b> \$501.00 to \$2,000.00: <b>\$25.00 and \$3.00 per each additional \$100 or fraction thereof and including \$2,000</b> \$2,001.00 to \$25,000.00: <b>\$70.00 and \$14.00 for each additional \$1,000 or fraction thereof to and including \$25,000</b> \$25,000.00 to \$50,000.00: <b>\$390.00 and \$10.00 for each additional \$1,000 or fraction thereof to and including \$50,000</b>



	<p>\$50,001.00 to \$100,000.00: <b>\$640.00 and \$7.00 for each additional \$1,000 or fraction thereof to and including \$100,000</b></p> <p>\$100,001.00 to \$500,000.00: <b>\$1,000.00 and \$6.00 for each additional \$1,000 or fraction thereof to and including \$500,000</b></p> <p>500,001.00 to \$1,000,000.00: <b>\$3,400.00 and \$5.00 for each additional \$1,000 or fraction thereof to and including \$1,000,000</b></p> <p>\$1,000,000 and up: <b>\$5,700 and \$7.00 for each additional \$1,000 or fraction thereof to and including \$1,000,000</b></p>
Maximum Building Permit fee	\$50,000.00
Early Foundation Permit/Early start agreement (Early foundation permit for commercial/industrial building will be deducted from permit fee upon full submittal.	25% of building permit fee
Demolition permit	\$120.00 plus State surcharge
Reroof – residential only	\$115.00
<p>Reroof –commercial</p> <p>per square valuation is used to determine valuation</p>	<p><b>\$275.00 per square -</b> Class A&amp;B (hotmop/torchdown)</p> <p><b>\$250.00 per square -</b> Composition( roll/3 tab)</p> <p><b>\$325.00 per square -</b> Composition with plywood replacement</p> <p><b>\$300.00 per square - Metal</b></p> <p><b>\$275.00 per square - Shake</b></p> <p><b>\$300.00 per square - Shingle</b></p>
Windows	\$25.00 first window, \$7.00 for each additional window



Reissuance of lost permit card	\$30.00
Reissuance of plan package	\$140.00
Stock Plans	50% of the ICC fee
Solid Fuel/Gas insert	\$140.00
Hearing Examiner appeal	\$2,400.00
Request for Reconsideration	\$500.00
Investigation fee	\$70.00 per hour
Mechanical Permit	<p>Each mechanical permit: <b>\$25.00</b></p> <p><b>FURNACE:</b>  For issuing each supplemental permit for which the original permit for the original permit has not expired, been canceled, or final: <b>\$8.00</b></p> <p>For the installation or relocation of each forced-air or gravity-type furnace or burner, including ducts and vents attached to such appliance, up to and including 100,000 Btu/h (29.3kW): <b>\$16.00</b></p> <p>For the installation or relocation of each forced-air or gravity-type furnace or burner, including ducts and vents attached to such appliance, over 100,000 Btu/h (29.3 kW): <b>\$20.00</b></p> <p>For the installation or relocation of each floor furnace, including vent: <b>\$16.00</b></p> <p>For the installation or relocation of each suspended heater, recessed wall heater on floor-mounted unit heater: <b>\$16.00</b></p> <p><b>Appliance Vents:</b>  For the installation, relocation or replacement of each appliance vent and not</p>





	<p>included in an appliance permit: <b>\$8.00</b></p> <p><b>Repairs or Additions:</b> For the repair of, or addition to each heating appliance, refrigeration unit, cooling unit, absorption unit, or each heating, cooling, absorption or evaporative cooling system, including installation of controls regulated by the Mechanical Code: <b>\$15.00</b></p> <p><b>Boilers, Compressors, and Absorption Systems:</b>  For the installation or relocation of each boiler or compressor to and including 3 horsepower (10.6 kW), or each absorption system to and including 100,000 Btu/h (29.3 kW): <b>\$15.00</b>  For the installation or relocation of each boiler or compressor over three horsepower (10.6 kW) to and including 15 horsepower (52.7 kW), or each absorption system over 100,000 Btu/h (29.3 kW) to and including 500,000 Btu/h (146.6 kW): <b>\$30.00</b>  For the installation or relocation of each boiler or compressor over 15 horsepower (52.7 kW) to and including 30 horsepower (105.5 kW), or each absorption system over 500,000 Btu/h (146.6 kW) to and including 1,000,000 Btu/h (293.1 kW): <b>\$40.00</b>  For the installation or relocation of each boiler or compressor over 30 horsepower (105.5 kW) to and including 50 horsepower (176 kW), or each absorption system over 1,000,000 Btu/h (293.1 kW) to and including 1,750,000 Btu/h (512.9 kW): <b>\$60.00</b></p>
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	<p>For the installation or relocation of each boiler or compressor over 50 horsepower (176 kW), or each absorption system over 1,750,000 Btu/h (512.9 kW): <b>\$100.00</b></p> <p><b>Air Handlers:</b> For each air-handling unit to and including 10,000 cubic feet per minute (cfm) (4719 L/s), including ducts attached thereto: <b>\$12.00</b></p> <p>Note: This fee does not apply to an air-handling unit, which is a portion of a factory-assembled appliance, cooling unit, evaporative cooler or absorption unit for which a permit is required elsewhere in the Mechanical Code for each air-handling unit over 10,000 cfm (4719 L/s): <b>\$20.00</b></p> <p><b>Evaporative Coolers:</b> For each evaporative cooler other than portable type: <b>\$12.00</b></p> <p><b>Ventilation and Exhaust:</b> For each ventilation fan connected to a single duct: <b>\$8.00</b></p> <p>For each ventilation system which is not portion of any heating or air-conditioning system authorized by a permit: <b>\$12.00</b></p> <p>For the installation of each hood which is served by mechanical exhaust, including the ducts for such hood: <b>\$12.00</b></p> <p><b>Incinerators:</b> For the installation or relocation of each domestic-type incinerator: <b>\$20.00</b></p>
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	<p>For the installation or relocation of each commercial or industrial-type incinerator: <b>\$16.00</b></p> <p><b>Miscellaneous:</b> For each appliance or piece of equipment regulated by the Mechanical Code but not classed in other appliance categories, or for which no other fee is listed in the table: <b>\$12.00</b></p>
Mobile/Manufactured Home set-up	<p>Individual Lot: \$472.00 Park Set: \$165.00 NOTE: Includes 4x4 landing</p>
Mobile Home Title Eliminations	\$30.00
<p>Plan Review (All types other than Mechanical)</p> <p>*NOTE: Commercial kitchen based on project valuation of engineer's written estimate.</p>	<p>65% of Permit fee Mechanical only: 25% of Permit fee</p>
Plumbing Permit	<p>Each permit: <b>\$25.00</b></p> <p><i>NOTE: Unit Fee Schedule in addition to above</i></p> <p>For each plumbing fixture on one trap or a set of fixtures on one trap (including water, drainage piping, and backflow protection therefore): <b>\$8.00</b></p> <p>For each building sewer and each trailer park sewer: <b>\$16.00</b></p> <p>Rainwater systems per drain (inside building): <b>\$8.00</b></p> <p>For each cesspool where permitted: <b>\$27.00</b></p> <p>For each private sewage disposal system: <b>\$45.00</b></p> <p>For each water heater and/or vent: <b>\$8.00</b></p>



	<p>For each industrial waste pretreatment interceptor including its trap and vent, except kitchen-type grease interceptors functioning as fixture traps: <b>\$8.00</b></p> <p>For each installation, alteration or repair of water piping and/or water treating equipment, each: <b>\$8.00</b></p> <p>For each repair or alteration of drainage or vent piping, each fixture: <b>\$8.00</b></p> <p>For each lawn sprinkler system on any one meter including backflow protection devices therefore: <b>\$8.00</b></p> <p>For each backflow protective device other than atmospheric type vacuum breakers:</p> <ul style="list-style-type: none"> <li>• 2 inch (51 mm) diameter and smaller: <b>\$8.00</b></li> <li>• over 2 inch (51 mm) diameter: <b>\$16.00</b></li> </ul> <p>Atmospheric-type vacuum breakers:</p> <ul style="list-style-type: none"> <li>• 1 to 5: <b>\$5.00</b></li> <li>• over 5, each: <b>\$2.00</b></li> </ul>
Propane Tanks and Piping (above and below ground)	\$12.00 per tank
Refund: 2015-IBC Section 109.6 / 2015-IRC Section R108.5	<p>The building official may authorize refunding on not more than fifty percent (50%) of the permit fee paid when no work has been done under a permit issued in accordance with this code. The building official may authorize refunding of not more than seventy-five percent (75%) of the plan review fee paid when an applicant for a permit for which a plan review fee has not been paid is withdrawn or canceled before any plan reviewing is done. The building official shall not authorize refunding of any fee paid except on written application filed by the</p>





	original permittee no later than 180 days after the date of fee paid.
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### *Public Works*

Right-of-Way and Obstruction Permits (SMC Chapter 12.20)	Class 1: Short term maintenance permit: \$45.00 Class 2: Temporary Construction of permit: \$65.00, plus inspection fees Class 3: Fixture and Encroachment Permit: \$65.00, Sidewalk café, add \$280.00/hr review fee. Class 3 Permit \$15.00 annual renewal fee Class 4: Heavy Right-of-Way Use Permits: Fee calculated per SMC Sections 12.20.030.4 & 12.20.040.D
Fine for Work in Right of Way without Permits	\$250.00 plus standard permit fee
Special Development Studies: Traffic Impact Reports, Hydrology studies, and similar.	Contract Consultant fees
Traffic Impact Fee	\$3,735.71 for SFR/varies based on use. ORD. 1907-1017 Exhibit B
Public Improvement Plan Review Fee	3% of Estimated Cost of Public Improvements
Public Improvement Inspection Fee	3% of Estimated Cost of Public Improvements
Latecomer Agreement	\$280.00
Right-of-Way vacation	\$500.00
Utility Connection Application Permit Fee	
a. Water & Reclaimed Water Connections	\$170.00 plus applicable GFC
b. Sewer & Storm Drainage Connections	\$65.00 plus applicable GFC
Class A Bio-Solids Fertilizer fee	\$20.00 per 1.66 cy bag



### **Sewer GFC**

Water Meter Size	Weighting Factor	Fee
3/4"	1.00	\$3,258.00
1"	2.50	\$8,145.00
1.5"	5.00	\$16,290.00
2"	8.00	\$26,064.00
3"	16.00	\$48,870.00
4"	25.00	\$81,495.00
6"	50.00	\$162,900.00
8"	80.00	\$260,640.00

- Developments pursuant to SMC 18.02.110 shall be charged twenty-five percent (25%) of the equivalent charge above.

### **Sewer GFC** (Grandview Heights only)

Water Meter Size	Weighting Factor	Fee
3/4"	1.00	\$1,629.00
1"	2.50	\$4,072.00
1.5"	5.00	\$8,145.00
2"	8.00	\$13,032.00
3"	16.00	\$24,435.00
4"	25.00	\$40,725.00
6"	50.00	\$81,495.00
8"	80.00	\$130,320.00



### **Reclaimed Water**

Water Meter Charge

Fee

3/4" Meter	\$238.16
1"	\$354.91
1.5"	\$760.43
2"	\$1,029.38
3"	\$2,018.65
4"	\$3,170.16
6"	\$4,298.21
Above 6"	\$6,095.57

### **Reclaimed Water GFC**

Water Meter Size

Weighting Factor

Fee

3/4"	1.00	\$326.00
1"	2.50	\$815.00
1.5"	5.00	\$1,629.00
2"	8.00	\$2,606.00
3"	16.00	\$4,887.00
4"	25.00	\$8,150.00
6"	50.00	\$16,290.00
8"	80.00	\$26,064.00



### **Water Fees**

Water Turn off for other than non-payment (regular business hours)	\$0.00
Water Turn off for non-payment	\$100.00
Water Turn off (after business hours)	\$100.00
Water Turn on (regular business hours)	\$0.00
Water Turn on (after business hours)	\$100.00
Annual Hydrant Water Use Permit Application Fee (from issuance date)	\$70.00
Hydrant Meter, Gate Valve, and Wrench Deposit and Rental Fee	\$750.00 refundable deposit \$75 per month rental fee
Hydrant Water Billing and Water Use Charge and PWM Hydrant Load/Use Charge	\$45.00 quarterly billing charge, plus commercial water consumption charge per SMC 15.28.050
Fine for connection to hydrant without permit	\$1,000.00
Fine for connection to hydrant without meter	\$500.00
Fine for unauthorized connection/disconnection of water service	\$500.00

### **Water Meter Charge**

3/4" meter	\$238.16
1" meter	\$354.91
1.5" meter	\$760.43
2" meter	\$1,029.38
3" meter	\$2,018.65
4" meter	\$3,170.16





6" meter	\$4,298.21
Above 6" meter	\$6,095.57

### **Water Meter GFC**

Water Meter Size	Weighting Factor	Fee
3/4"	1.00	\$1,260.00
1"	2.50	\$3,150.00
1.5"	5.00	\$6,300.00
2"	8.00	\$10,080.00
3"	16.00	\$18,900.00
4"	25.00	\$31,500.00
6"	50.00	\$63,000.00
8"	80.00	\$100,800.00

- Developments pursuant to SMC 18.02.110 shall be charged twenty-five percent (25%) of the equivalent charge above.

### **Misc.**

Commercial Fire Line	No Charge
Backflow Testing	No Charge

### **Private Development ESC & Stormwater:**

ESC & Storm plan review, single family	\$75.00
ESC & Storm plan review all other sites	\$320.00
Final grading, ESC, & Stormwater inspections	\$80.00



## CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item G5)

Touch Date: 12/15/2020  
Brief Date: 01/05/2021  
Action Date: 01/19/2021

Department: Community Development  
Presented By: Mark Ziegler, Director

### APPROVED FOR COUNCIL PACKET:

Action Requested:

#### ROUTE TO:

#### REVIEWED:

#### PROGRAM/PROJECT TITLE:

**Contracts for Supplemental  
Budget Code Services**

☐

Ordinance

☐

Resolution

#### ATTACHMENTS:

**Consultant Contracts**

☒

Motion

☐

Other

☒ Dept. Head

☐ Finance Director

☐ Attorney

☒ City Clerk

☐ City Manager

### DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

The review and permit large commercial projects or significant residential construction activity in a timely manner is important to the City's economic vitality, supplemental building code services are needed to augment the lone City staff person in an effort to maintain reasonable review time and inspection schedules. The supplemental services may also be utilized if there is a potential for a conflict of interest.

On October 16 the Community Development Department requested statements of qualifications from consultants to provide supplemental building code services. Four responsive submittals were received by the November 20 deadline. Staff reviewed the qualifications of the consultants and is recommending the top two consultants to proceed with contract execution.

### ANALYSIS/OPTIONS/ALTERNATIVES:

This is the most economical way to provide such services. Adding staff to address an uptick in permits is not a long-term solution at this time.

### BUDGET/FISCAL INFORMATION:

Services are billed at a percentage of the City's building and plan review fees based on work orders.

### PUBLIC INFORMATION REQUIREMENTS:

None

### STAFF RECOMMENDATION/MOTION:

"I move to approve the supplemental building code services contracts with Clarity Consulting Engineers and CodePros, LLC and authorize the Mayor to sign".

## CONTRACT FOR SERVICES

### City of Shelton and Clarity Consulting Engineers, LLC

This Agreement is entered into by and between the City of Shelton, Washington, ("the City") and Clarity Consulting Engineers, LLC, ("the Consultant"), whose principal office is located at 13031 Lala Cove Lane, Olalla, WA 98359.

WHEREAS, the City has determined the need to have engineering services performed for the **Supplemental Building Code Services Pool**; and

WHEREAS, the City opened proposals submitted in response to the Request for Qualifications on November 20, 2020 and selected Clarity Consulting Engineers following review of proposals received; and

WHEREAS, the City desires to have the Consultant perform such services pursuant to the following terms and conditions;

NOW, THEREFORE, IN CONSIDERATION OF the mutual benefits and conditions set forth below, the parties hereto agree as follows:

1. **Scope of Services to be Performed by Consultant.** The Consultant shall perform services, as described on **Exhibit "A"** attached hereto and incorporated herein by this reference as if fully set forth in this contract. Any other services must be agreed by the City and the Consultant parties if not specified throughout.
2. **Compliance with Applicable Industry Standards, Laws and Requirements.** In performing such services, the Consultant shall at all times comply with all federal, state and local laws applicable to the performance of such services. It is the Consultant's responsibility to identify and comply with such laws, including but not limited to Washington's laws against discrimination; Washington's Industrial Safety and Health Act and associated regulations; Washington's Unemployment Compensation provisions, and any other applicable laws, statutes, regulations or requirements otherwise applicable to the services provided under this Agreement.
3. **Registration, Licensing and Bonding.** Consultant shall at all times maintain appropriate registration, licensing and bonding applicable to professional services to be performed pursuant to this Agreement, and has provided or will provide written evidence of the same to the City upon execution of this Agreement, and shall require and produce the same with respect to any subcontractors/assignees (if the same are authorized by the City to perform pursuant to the terms of this Agreement).
4. **Time Devoted.** The Consultant shall devote such time as reasonably necessary for the satisfactory performance of the services under this Agreement. Should Client require additional services not included under this Agreement, the Consultant shall make

reasonable effort to provide such additional services within the time schedule without decreasing the effectiveness of the performance of services required under this Agreement, and shall be compensated for such additional services as agreed between the Parties.

5. **Provisions of Facilities, Equipment, Personnel.** The Consultant shall furnish the facilities, equipment and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.

6. **Compensation and Method of Payment.** No minimum level of compensation is guaranteed under this Agreement. Compensation will be based on services actually requested by the City and performed by the Consultant. In consideration of the Consultant providing services, the City shall pay the Consultant for the services performed on each Work Order in accordance with the fee schedule included herein as "**Exhibit B.**"

The Consultant shall complete and return **Exhibit "C"**, Tax Identification Number, to the City prior to or along with the first billing voucher submittal. The Consultant is required to have a City Business license and no payment will be made until one is obtained.

7. **Provisions for Changes in Scope of Consultant Services.** The Consultant agrees to perform those services which are described in **Exhibit "A"** attached hereto. Unless modified in writing and agreed to by both parties, the duties of the Consultant shall not be construed to exceed those services. The City and the Consultant agree that if additional duties are to be performed by the Consultant in the prosecution of this work, the Consultant shall submit an additional or supplemental work program and upon the City's approval, shall be compensated on the same terms of this contract as previously stated, or in a manner mutually agreed upon by both parties.

8. **Duration of Agreement.** This Agreement shall be in full force and effect for a period commencing on the date of execution and ending December 31, 2022, unless sooner terminated under the provisions hereinafter specified. To meet the needs of the City's on-going projects and by Agreement of both parties this contract may be amended to extend the expiration date until December 31, 2023, or completion of work authorized under this Agreement whichever is later.

9. **Ownership and Use of Documents.** All documents, drawings, specifications, and other materials produced by the Consultant in connection with the services rendered under this Agreement shall be the property of the City whether the project for which they are made is executed or not. The City shall hold the Consultant harmless for the City's use of the documents, drawings, specifications, and other materials outside of the project intended.

10. **Independent Consultant.** The Consultant and the City agree that the Consultant is an Independent Contractor with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties. Neither the Consultant nor any employee of the Consultant shall be entitled to any benefits accorded City employees by virtue of the services provided under this Agreement. The City shall not be responsible for paying, withholding, or otherwise deducting any customary state or federal payroll deductions,



including but not limited to FICA, FUTA, state industrial insurance, state workers compensation, or otherwise assuming the duties of an employer with respect to the Consultant or any employee of the Consultant.

In accordance with Shelton Municipal Code, for the privilege of accepting or executing a contract with the City of Shelton, irrespective of whether goods or services are delivered within or outside the city, or whether the person's office is within or outside the city, the Consultant is subject to the licensing requirements and business and occupation tax levied in SMC Chapters 5.04.030 and 3.52.060.

**11. Indemnification / Hold Harmless**

Consultant shall defend, indemnify and hold the Public Entity, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Consultant in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Public Entity.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the Public Entity, its officers, officials, employees, and volunteers, the Consultant's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Consultant's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Consultant's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification.

This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

**A. Insurance Term**

The Consultant shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

**B. No Limitation**

The Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the Public Entity's recourse to any remedy available at law or in equity.

**C. Minimum Scope of Insurance**

The Consultant shall obtain insurance of the types and coverage described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be as least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The Public Entity shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the Public Entity using an additional insured endorsement at least as broad as ISO CG 20 26.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.
4. Professional Liability insurance appropriate to the Consultant's profession.

**D. Minimum Amounts of Insurance**

The Consultant shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

**E. Other Insurance Provision**

The Consultant's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the Public Entity. Any insurance, self-insurance, or self-insured pool coverage maintained by the Public Entity shall be excess of the Consultant's insurance and shall not contribute with it.

**F. Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

**G. Verification of Coverage**

The Consultant shall furnish the Public Entity with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured

endorsement, evidencing the insurance requirements of the Consultant before commencement of the work.

#### **H. Notice of Cancellation**

The Consultant shall provide the Public Entity with written notice of any policy cancellation within two business days of their receipt of such notice.

#### **I. Failure to Maintain Insurance**

Failure on the part of the Consultant to maintain the insurance as required shall constitute a material breach of contract, upon which the Public Entity may, after giving five business days notice to the Consultant to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Public Entity on demand, or at the sole discretion of the Public Entity, offset against funds due the Consultant from the Public Entity.

#### **J. Public Entity Full Availability of Consultant Limits**

If the Consultant maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this contract or whether any certificate of insurance furnished to the Public Entity evidences limits of liability lower than those maintained by the Consultant.

### **12. Record Keeping and Reporting.**

- A. The Consultant shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed pursuant to this Agreement. The Consultant shall also maintain such other records as may be deemed necessary by the City to ensure proper accounting of all funds contributed by the City to the performance of this Agreement.
- B. These records shall be maintained for a period of seven (7) years after termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with RCW Chapter 40.14 and by the City.

### **13. Audits and Inspections.** The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review, or audit as allowed by law during the performance of this Agreement. The City shall have the right to conduct an audit of the Consultant's financial statement and condition and to a copy of the results of any such audit or other examination performed by or on behalf of the Consultant.

14. **Termination.** This Agreement may at any time be terminated for any reason by the City upon giving to the Consultant thirty (30) days written notice of the City's intention to terminate the same. If the Consultant's insurance coverage is canceled for any reason, the City shall have the right to terminate this Agreement immediately. Consultant will be paid for satisfactory work performed through the date of termination.
15. **Discrimination Prohibited.** The Consultant shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Consultant under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap, or any other protected class.
16. **Assignment and Subcontract.** The Consultant shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of the City.
17. **Entire Agreement.** This Agreement and Exhibits **A, B, & C** contain the entire Agreement between the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind either party. Either party may request changes to the Agreement. Proposed changes, which are mutually agreed upon and signed by each parties authorized signatory, shall be incorporated by written amendments to this Agreement.
18. **Notices.** The designated project representative for the City of Shelton is:

Sean Carlstrom  
Building Official  
City of Shelton  
525 West Cota Street  
Shelton, Washington 98584  
Phone number: (360) 432-5175  
Email: sean.carlstrom@sheltonwa.gov

Notices to the City shall be sent to the address noted above.

The designated project representative for the Consultant is Hoyt Jeter. Notices to the Consultant shall be sent to the following address:

Hoyt D. Jeter, President  
Clarity Consulting Engineers  
PO Box 523  
13013 Lala Cove Lane  
Olalla, WA 98539  
Phone number: (206) 356-7790  
Email: hoyt@clarityconsultingengineers.com



19. **Applicable Law; Venue; Attorneys' Fees.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in Mason County, Washington.
20. **Representation of Consultant.** The Consultant represents to the City that it has no conflict of interest in performing any of the services set forth in **Exhibit "A."** In the event that the Consultant is asked to perform services for a project with which it may have a conflict, it will disclose such conflict to the City. At the discretion of the City, the City may direct the Consultant to refrain from entering into a contract with representatives of the conflicting project.
21. **Invoice and Activity Report.** The Consultant shall provide an activity report with each invoice highlighting services provided during the billing period, upcoming activities, and emerging management issues.


CONTRACT SIGNATURES

DATED this 15 day of December, 2021

CITY OF SHELTON

Clarity Consulting Engineers

By: \_\_\_\_\_  
Kevin Dorcy, Mayor

By: \_\_\_\_\_  
Signature

Printed Name and Title:

Hoyt D Jeter., President

Attest/Authenticated:

\_\_\_\_\_  
City Clerk (or witness to signature)

## EXHIBIT A

### Clarity Consulting Engineers

When requested by The City, Consultant shall perform services in accordance with the terms and conditions of this Agreement.

**Full Plan Review:** Upon request by the City, the Consultant shall review all contract documents which consist of plans, specifications and engineering data to determine whether the items comply with all applicable ordinances and state building code; in addition, all local codes and regulation required by the city. The Consultant shall issue a formal written document for each set of plans reviewed.

**Partial Plan review:** Upon request by the City, the Consultant shall review partial elements of contract documents which consist of plans, specifications and engineering data to determine whether the items comply with all applicable ordinances and state building codes; in addition to, all local codes and regulation required by the city. Contract documents may consist of the items listed below. The definitions of a partial plan review is the review of any one of these items or selected multiple items.

- I. Structural Review
- II. Architectural Review (Ordinance and Barrier Free)
- III. Energy Review
- IV. Barrier Free Accessibility Review
- V. Fire Suppression Review
- VI. LEEDS Review
- VII. Mechanical Review
- VIII. Plumbing Review
- IX. Fire Alarm Review

The Consultant shall provide maximum of two rechecks without additional fees.

**Additional Reviews:** The Consultant shall perform additional reviews beyond (2) rechecks when authorized by the City, at an hourly rate as described in **Compensation**.

**Miscellaneous Engineering:** Upon request of the city the Consultant shall provide miscellaneous engineering services, at an hourly rate as described in **Compensation**, but shall not exceed an agreed amount.

**Inspection:** Upon request by the City, the Consultant shall inspect all structures as defined by the permitted documents on an hourly basis as described in **Compensation**.

<b>Number of working days for plan check:</b>	<b>First review</b>	<b>Second review</b>
Single Family residence/duplex	10	5
Commercial/Multi-Family under \$5M in valuation	15	10
Commercial/Multi-Family over \$5M in valuation	30	15

## COMPENSATION

### BUILDING CODE REVIEW FEE STRUCTURE

#### Commercial/Multi-Family Non-Structural Fire/Life Safety and Structural review only:

City Valuation of Construction	Clarity Consulting Plan Review Fee (% of Building Department <u>Plan review fee</u> )	Hourly rate (Reviews in excess of 2)
\$1 to \$500,000	80%	\$110
\$500,001 to \$2,500,000	75%	\$110
\$2,500,001 and above	65%	\$110

#### Commercial/Multi-Family Non-Structural, Fire/Life Safety, Mechanical, LEED, Plumbing or Structural review only

Valuation of Construction	Clarity Consulting Plan Review Fee (% of Building Department <u>Plan review fee</u> )	Hourly rate (Reviews in excess of 2)
\$1 to \$500,000	75%	\$110
\$500,001 to \$2,500,000	65%	\$110
\$2,500,001 and above	55%	\$110

#### Single Family Residence Full Review

Clarity Consulting Plan Review Fee (% of Building Department <u>Permit Fee</u> )	Hourly rate (Reviews in Excess of 2)
50%	\$110

Fire Suppression and/or fire alarm review is based on hourly fees at a rate of \$110 per hour.

The Consultant shall provide maximum of two rechecks without any additional fees.

The above fees include all labor, material and expenses required for completion of these service



### Hourly Rate Schedule

Personnel Description	Hourly Billing Rates
Professional Engineer	\$110
Architect	\$110
Certified Code Review Personnel	\$100
Fire Protection Engineer	\$110
Certified Inspector	\$85
Electrical Specialty	\$95
Permit Technician	\$60
Administration Support	\$45

If prevailing wages are required on a project, then CCE's rates will be adjusted to accommodate prevailing rate payroll rules.

In addition, CCE's rates will be adjusted to accommodate for overtime, evening and night shift premiums with authorization by the City

Personal vehicles for inspections, shall be billed the mileage at the standard federal rate. The mileage shall only be from the city hall to the site for inspections.

**EXHIBIT B**

City of Shelton  
Billing Voucher

To: City of Shelton  
525 West Cota  
Shelton, Washington 98584  
Phone: (360) 426-9731  
FAX: (360) 426-7746

Submittal No.: \_\_\_\_\_

Consultant: \_\_\_\_\_ Telephone: (    ) \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Project Title: \_\_\_\_\_

Contract Period: \_\_\_\_\_ Reporting Period: \_\_\_\_\_

Amount requested this invoice: \$ \_\_\_\_\_

Invoice Number: \_\_\_\_\_ Date of Invoice: \_\_\_\_\_ (Attach Invoice)

\_\_\_\_\_  
Authorized Signature

-----  
**BUDGET SUMMARY**

Total contract amount	\$ _____
Previous payments	\$ _____
Current request	\$ _____
Total requested this contract to date	\$ _____
Balance remaining	\$ _____

Note: If applicable, submit a separate voucher for each project, which is funded by your City of Shelton contract.

-----  
*For Department Use Only*

\_\_\_\_\_  
Community Development Director

Date: \_\_\_\_\_

## EXHIBIT C

CITY OF SHELTON  
525 West Cota Street  
Shelton, WA 98584  
Phone: (360) 426-9731  
FAX: (360) 426-7746

### TAX IDENTIFICATION NUMBER

In order for you to receive reimbursement from the City of Shelton, we must have either a Tax Identification Number or a Social Security Number. The Internal Revenue Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business.

Please complete the following information request form and return it to the City of Shelton before or along the submittal of the first billing voucher.

Please check the appropriate category:

☒ Corporation      ☐ Partnership      ☐ Government Agency  
☐ Individual/Proprietor      ☐ Other (please explain)

Tax Identification #: 81-0874766

UBI #: 603-561-411

Print Name: Hoyt D Jeter

Print Title: President

Business Name: Clarity Consulting Engineer, PLLC

Business Address: 13013 Lala Cove Lane, Olalla WA 98359

Mailing Address: PO BOX 523, Olalla WA 98359

Business Phone: 206-356-7790

Business e-mail:

hoyt@clarityconsultingengineers.com



12/15/2020

\_\_\_\_\_  
Authorized Signature (required)

\_\_\_\_\_  
Date



## CITY OF SHELTON COUNCIL BRIEFING REQUEST (Agenda Item G6)

Touch Date: 11/23/2020  
Brief Date: 11/23/2020  
Action Date: 01/19/2020

Department: Executive  
Presented By: Jeff Niten

### APPROVED FOR COUNCIL PACKET:

Action Requested:

#### ROUTE TO:

#### REVIEWED:

- |                                     |                  |       |
|-------------------------------------|------------------|-------|
| <input type="checkbox"/>            | Dept. Head       | _____ |
| <input type="checkbox"/>            | Finance Director | _____ |
| <input type="checkbox"/>            | Attorney         | _____ |
| <input checked="" type="checkbox"/> | City Clerk       | _____ |
| <input checked="" type="checkbox"/> | City Manager     | JN    |

PROGRAM/PROJECT TITLE:  
**Policy Updates**

ATTACHMENTS:  
- City Policies

- |                                     |            |
|-------------------------------------|------------|
| <input type="checkbox"/>            | Ordinance  |
| <input type="checkbox"/>            | Resolution |
| <input checked="" type="checkbox"/> | Motion     |
| <input type="checkbox"/>            | Other      |

### DESCRIPTION OF THE PROGRAM/PROJECT AND BACKGROUND INFORMATION:

City leadership has reviewed the policy manual and has suggested changes to existing policy, as well as included new policy for City Council consideration. New policies proposed include, but are not limited to, a Core Ethics policy, a Team Philosophy policy.

### ANALYSIS/OPTIONS/ALTERNATIVES:

City staff propose the following as alternatives:

- Direct staff to change any attached policy document to reflect desired Council positions.

### BUDGET/FISCAL INFORMATION:

N/A

### PUBLIC INFORMATION REQUIREMENTS:

Information can be obtained through the City Clerk.

### STAFF RECOMMENDATION/MOTION:

A recommended motion is: "I move to adopt the proposed City policies as presented".





## POLICY AND PROCEDURE

<b>SUBJECT:</b> Policy and Procedure Documents	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-01
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> Policy 100-01 dated May 1, 1991	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

To establish the policy and procedure for the development, coordination and issuance of the City of Shelton Policy and Procedure Manual.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

City of Shelton Ordinance 1230, adopted March 7, 1988.

### 4.0 POLICY AND PROCEDURE:

It is the policy of the City of Shelton to maintain and administrative policy and procedures manual which outlines matters of overall administrative policy, rules of procedure and methods of operation. These administrative policies and procedures are intended to guide city staff in implementing Ordinances, Resolutions, and other official policies adopted by the City Council.

#### 4.1 Responsibility

- 4.1.1 The City Manager and all department heads are responsible for preparing city policy and procedure documents for the City of Shelton.
- 4.1.2 All employees of the City of Shelton are responsible for maintaining a constant awareness of policy and procedure documents and are responsible for complying with approved policy and procedure documents.
- 4.1.3 The City Council is responsible for approving all policies which affect all city departments (City Policy).

- 4.1.4 The City Manager is responsible for approving all administrative policy and procedure documents which affect one or more departments, but not all departments (Administrative Policy).

#### 4.2 Origination:

- 4.2.1 The City Manager, or designee, is responsible for originating and drafting policies and procedures which affect all city departments.
- 4.2.2 Department heads are responsible for originating and drafting policies and procedures which affect their department.
- 4.2.3 Formats for all policy and procedure documents shall be in the form specified by the City Manager.

#### 4.3 Coordination and Approval:

- 4.3.1 New or revised administrative policies and procedures shall be submitted to the City Manager for review.
- 4.3.2 The draft policy or procedure shall be circulated among the Leadership Team for review and comment.
- 4.3.3 Following review of the proposed policy by the Leadership Team the City Manager shall, in conjunction with the affected department head(s), finalize the policy and/or procedure and distribute copies to the affected department(s).

#### 4.4 Distribution:


- 4.4.1 The City Clerk is responsible for maintaining the Master Policy and Procedure Manual and for distribution of new or revised policies to all departments as appropriate.
- 4.4.2 Department heads are responsible for informing their employees about new or revised policies as appropriate.

#### 4.5 Numbering:

- 4.5.1 The City Manager, or designee, will assign numbers to policies and procedures, organized by subject group and numbers, as follows:

<u>SUBJECT GROUP</u>	<u>POLICY NUMBER</u>
General Administration	100
Personnel	200
Finance	300
RESERVED	400

RESERVED	500
RESERVED	600
RESERVED	700
Community Development	800
RESERVED	900
Public Works	1000
Parks and Recreation	1100
RESERVED	1200
RESERVED	1300
Water Utility	1400
Sanitary Sewer Utility	1500
Miscellaneous	1600

	<h1>POLICY AND PROCEDURE</h1>	
<b>SUBJECT:</b> Social Media Use Policy – Moderated, Limited Discussion Outlets	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-06
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b>	
<b>PREPARED BY:</b> Andy Arnes	<b>APPROVED BY:</b> Jeff Niten	

## 1.0 PURPOSE:

Using various social media platforms, the City of Shelton will increase the visibility and transparency of local government, encourage citizen involvement in governmental processes and conversations, share pertinent news, including time-sensitive emergency updates, and promote and protect its image and reputation online.

This policy will govern the City of Shelton's use of social media. This policy is subject to change without notice. It is a living document and shall be updated as necessary.

## 2.0 PROCEDURES:

- 2.1 The City of Shelton shall consider the social media accounts that it creates and maintains, whether developed solely by the City or using a third-party social media resource (e.g., Facebook, Twitter, YouTube), to be moderated, limited discussion outlets and not general public forums.
- 2.2 The City Manager and/or his/her designee shall ultimately be responsible for reviewing and approving all social media content before it is posted.
- 2.3 The City Manager and/or his/her designee will administer social media accounts. Responsibilities include:
  - Managing and maintaining lists of usernames and passwords
  - Editing and removing content from sites
  - General upkeep of various social media platforms




- 2.4 The City Manager is responsible for approval of new social media tools. The City Manager is also responsible for approval of discontinuing use of social media tools.
- 2.5 The City of Shelton's website shall remain the City's primary internet domain. The social media accounts of the City will be secondary and supplementary to the official City website.
- 2.6 The administrators of the social media platforms will use uniform images, language, and tone in order to maintain a consistent and professional outward appearance.
- 2.7 City Employees, City Volunteers, and members of an Appointed Committee are prohibited from creating a social media account that is directly or indirectly affiliated with the City of Shelton without the express written consent of the City Manager.
- 2.8 Wherever possible, City of Shelton social media accounts shall comply with all appropriate City of Shelton policies and standards, including but not limited to:
- Anti-Harassment Policy 200-1002
  - Standards of Conduct Policy 200-1601
  - Use of City Office Technologies
- 2.9 In all possible cases, posts must adhere to the Americans with Disabilities Act, which requires electronic information be reasonably accessible to people with disabilities.
- When posting photos, add text to explain what is in the picture
  - When posting videos, add text to explain the contents of the video
- 2.10 City of Shelton social media accounts shall comply with Shelton Ethics and Elections code and administrative rules.
- 2.11 City of Shelton social media accounts are subject to State of Washington public records laws. Any and all content related to city business posted on or to the City's various social media platforms is subject to public records laws and shall be retained.
- Users and viewers shall be notified that any content posted or submitted for posting are subject to public disclosure
  - Public Records Request responses must completely and accurately respond to any request for public records on social media.
- 2.12 Washington state law and relevant City of Shelton records retention schedules apply to social media formats and social media content. Pursuant to the Secretary of State's Local Common Records Retention Schedule (CORE), records shall be easily accessible and preserved for the required retention period on a city server in a format that preserves the integrity of the original record.
- 2.13 Users and visitors shall be notified that the following is prohibited on City of Shelton social media accounts:
- Posts and comments that include vulgar, offensive, threatening or harassing language, personal attacks or unsupported accusations.
  - Posts and comments not related to the original topic, including random or unintelligible comments.

- Posts and comments that are not factual or accurate.
- Posts and comments that promote, foster, or perpetuate discrimination on the basis of creed, color, age, religion, gender, marital status, national origin, physical or mental disability, sexual orientation, or any other status protected by law.
- Posts and comments that promote or advertise commercial services, unless the advertising is generated by the third-party social media service in such a manner that the City cannot block the advertising.
- Political comments promoting or opposing any person campaigning for election to a political office or promoting or opposing ballot propositions.
- Religious statements, including comments that endorse or oppose any type of religion, religious opinions or activities.
- Obscene or sexual content or links to obscene or sexual content.
- Conduct in violation of any federal, state or local law, or encouragement of illegal activity.
- Information that could compromise the safety or security of the public or public systems.
- Content that could violate the legal ownership interest of any other party.
- Content that could compromise an ongoing investigation.

Users and visitors shall be notified that the City of Shelton reserves the right to:

- Immediately remove posted content that violates the prohibited content policy;
- Remove posted content and/or comments after 30 days;
- Deny access to City of Shelton social media accounts to any individual who violates the City of Shelton's Social Media Policy at any time, without prior notice;
- Discontinue or delete a discussion thread at any time, without cause or prior notice.

- 2.14 All removed content will be documented and retained. Documentation includes the content, date and time of the post, and the username of the user who posted the comment.
- 2.15 There will be a disclaimer notice on all social media accounts stating that these are not locations where citizen issues (e.g., crime, public records request or road repair) are to be reported. There will be recommendations of where citizens should direct any such issues or concerns (e.g., Shelton PD, City Clerk, Public Works).
- 2.16 Copyright laws
- Content that violates a legal ownership interest of any other party is prohibited.
  - All information and materials generated by the City of Shelton and provided by the City of Shelton social media accounts are the property of the City of Shelton.
  - Copyright holders can contact the City of Shelton to have information corrected or content removed if copyrighted materials are not properly credited.
- 2.17 There will be an annual review by the City Manager to ensure that social media platforms have been maintained in adherence to the social media use policy.

	<h1>POLICY AND PROCEDURE</h1>	
<b>SUBJECT:</b> General Social Media Disclaimer	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-07
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b>	
<b>PREPARED BY:</b> Andy Arnes	<b>APPROVED BY:</b> Jeff Niten	

## 1.0 PURPOSE

The primary purpose of the City's social media accounts is to communicate news, events and information from the City to residents, businesses, visitors and other interested parties.

The City considers the social media accounts that it creates and maintains, whether developed solely by the City or using a third-party social media resource (e.g., Facebook, Twitter), to be moderated, limited discussion sites and not general public forums. The sites will be moderated by City staff. Discussion topics and information will be initiated by City staff. All posted content (e.g., comments, photos, links) must relate to the particular discussion initiated by the City and be focused on City programs, services, projects, issues, events, and activities.

Any comment posted on City of Shelton social media accounts by anyone other than an authorized City staff member acting on behalf of the City, is the opinion of the commentator or poster only. Publication of a comment or post does not imply endorsement of or agreement by the City of Shelton, nor do such comments necessarily reflect the opinions or policies of the Shelton City Council.

## 2.0 THE FOLLOWING ARE PROHIBITED ON CITY OF SHELTON SOCIAL MEDIA ACCOUNTS:

1. Posts and comments that include vulgar, offensive, threatening or harassing language, personal attacks or unsupported accusations.
2. Posts and comments not related to the original topic, including random or unintelligible comments.
3. Posts and comments that are not factual or accurate.

4. Posts and comments that promote, foster or perpetuate discrimination on the basis of creed, color, age, religion, gender, marital status, national origin, physical or mental disability, sexual orientation, or any other status protected by law.
5. Posts and comments that promote or advertise commercial services, unless the advertising is generated by the third-party social media service in such a manner that the City cannot block the advertising.
6. Political comments promoting or opposing any person campaigning for election to a political office or promoting or opposing ballot propositions.
7. Religious statements, including comments that endorse or oppose any type of religion, religious opinions, or activities.
8. Obscene or sexual content or links to obscene or sexual content.
9. Conduct in violation of any federal, state or local law, or encouragement of illegal activity.
10. Information that could compromise the safety or security of the public or public systems.
11. Content that could violate the legal ownership interest of any other party.
12. Content that could compromise an ongoing investigation.

### **3.0 THE CITY OF SHELTON RESERVES THE RIGHT TO:**

1. Immediately remove posted content that does not comply with this policy;
2. Remove posted content and/or comments after 30 days;
3. Deny access to City of Shelton social media accounts to any individual who violates the City of Shelton's Social Media Policy at any time, without prior notice;
4. Discontinue or delete a discussion thread at any time, without cause or prior notice.

All content added or uploaded to City of Shelton social media accounts will be periodically reviewed by City staff. All content on City of Shelton social media is considered a public record. For that reason, users should refrain from including telephone numbers, home addresses, email addresses, and any other private information in the body of their comment.

Communications and/or requests made through City of Shelton social media accounts in no way constitutes a legal or official notice of or comment to the City of Shelton. For example, a post or comment on a social media site requesting public records will not be considered a public records request to the City, and a post or comment on an issue or topic subject to a noticed comment period will not be considered part of the official record for that issue or topic.

All comments and posts on City of Shelton sites offered through third-party services must comply with any and all terms or statements of use of the specific service (e.g., Facebook, Twitter). The City of Shelton reserves the right to report any violation to the specific service in accordance with the policies of the third-party service.

This policy is subject to change without notice.





## POLICY AND PROCEDURE

<b>SUBJECT:</b> Council Deliberation	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-10
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> Policy 100-10 dated November 21, 2007	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

To establish a procedure ensuring that the City Council and members of the public are given appropriate notice in order to make thoughtful decisions on non-emergency matters.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

City of Shelton Protocol Manual adopted by Council via Ordinance 1936-0119 on January 2, 2019.  
Shelton Municipal Code 2.04. Revised Code of Washington (RCW) 35.18.170.

### 4.0 POLICY AND PROCEDURE:

It is the policy of the City of Shelton to thoughtfully consider decisions, and to allow for meaningful public participation, prior to deciding non-emergency matters. Additionally, it is the policy of the City of Shelton to provide opportunity for public comment prior to deciding non-emergency matters.

The general policy is hereby established to require that the Shelton City Council be given appropriate opportunities to consider an issue prior to being asked to decide a non-emergency matter. Exceptions are permitted for subjects where the strict application of this policy is impractical, or otherwise inadvisable.

It is recognized that unanticipated circumstances may arise wherein observance of this policy is impractical. See Policy 100-90. Regardless, those involved in the policy process should make every effort to adhere to the expectation embodied in this procedure.

#### 4.1 Looking Ahead Agenda:

- 4.1.1 The purpose of the Looking Ahead Agenda is to establish a list of issues that are anticipated to be under consideration at future City Council meetings.
- 4.1.2 The Looking Ahead Agenda shall be maintained by the City Clerk.
- 4.1.3 The Looking Ahead Agenda is to be attached to each City Council Regular Meeting Agenda, and published as though it was part of the meeting.
- 4.1.4 The Looking Ahead Agenda shall include the anticipated date of the future action.
- 4.1.5 The date the briefing and supporting materials are due for publication to ensure accurate information to the City Council and to the public.
- 4.1.5 For all matters to be heard by City Council items shall be placed on the look ahead agenda for the anticipated date of consideration at the earliest possible opportunity. In no instance shall items be placed on the Look Ahead Agenda less than one (1) meeting prior to the expected Action date by City Council unless otherwise determined to be impractical.

#### 4.2 Other "Touch" Options/Methods

- 4.2.1 Although the Council Deliberation method discussed in this policy associated with the Looking Ahead Agenda is expected to be the most commonly used methodology, other less formal communications are permitted. Less formal communications include Council briefings scheduled regularly with the City Manager. Work sessions on specific topics may be utilized to provide City Council with additional in-depth information on complex topics. Whether formal or informal practices are used the crucial point is to give notice to the City Council and the public about upcoming matters scheduled for Council consideration.
- 4.2.2 Ordinances considered by the Shelton City Council shall be considered at two (2) public meetings unless the majority of Council desires to waive second reading of any Ordinance where permitted by law. The first public meeting shall be a duly noticed public hearing if required.
- 4.2.3 Resolutions considered by the Shelton City Council shall be heard at a single meeting, unless the majority of City Council desires a second meeting.
- 4.2.4 Motions shall be considered by Shelton City Council utilizing the same method for Resolutions.



## POLICY AND PROCEDURE

<b>SUBJECT:</b> Introduction	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-14
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> New	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to establish the importance of employee knowledge of City objectives and expectations. Therefore, the City has created a Team Philosophy, and this Employment Policy Manual.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

None.

### 4.0 POLICY AND PROCEDURE:

It is the policy of the City of Shelton to establish expectations and provide employees with the tools for success within the organization.

### 5.0 PROCEDURE:

The Team Philosophy provides the foundation of what we stand for and what we tolerate. It includes these uncompromising core values: Stewardship, Integrity, Respect, Accountability and Responsibility, Creativity and Initiative, Cooperation and Collaboration, Leadership, and Reputation. These values are a fundamental part of how the City does business. The Employee Policy Manual is based on, and an extension of, the Team Philosophy.

The policies and guidelines contained in this Manual establish expectations, communicate information, create a uniform system for personnel management, and assure that personnel actions and decisions are fair, equitable and in compliance with state and federal employment laws as well as the City ordinance. The Team Philosophy and the Employment Policy Manual have the unqualified approval and support of management.

The Team Philosophy and Employee Policy Manual apply to all regular employees and members of management at all levels of supervisory responsibility. Employees will be held accountable for compliance with the Team Philosophy as well as the policies and guidelines in this manual. Violation of the Team Philosophy or any policy or guideline may result in corrective or disciplinary action, up to and including termination of employment.

Department Directors, with approval of the City Manager, may create guidelines more specific to their respective department operations. If the provisions of a department policy and this Policy Manual differ, the City policy shall prevail.

Policies in a department manual or in this Policy Manual may also be covered by a collective bargaining agreement. In cases where City policy differs from language in a bargaining agreement, the language in the bargaining agreement shall take precedence. In all other cases including, but not limited to, those areas where the agreement is silent, the City or department policy will control.

The policies in any department policy manual and in this Policy Manual do not create an employment contract, a promise of specific treatment in any specific situation, or a guarantee of employment for any specific duration between the City of Shelton and its employees. No employee of the City has the authority to grant or offer to any employee any job security or protection which is not provided for under a City policy, collective bargaining agreement or written employment agreement.

As the City grows and transforms, the expectations of each department any employee may also change. Similarly, the laws which govern the working relationship between the City and its employees are constantly changing. It is not possible for any manual or handbook to cover all events and circumstances that could arise. Therefore, the City may modify, or eliminate or add to any policies to achieve the mission and goals of the City or to adhere to any changes in state or federal law. The City will comply with all state and federal collective bargaining requirements prior to implementing changes. In addition, employees will be notified of modifications and, as changes occur, the Policy Manual will be updated. Employees will be responsible for complying with new and updated policies.

The employment policies contain information that is important to each employee's job and to successful employment with the City of Shelton. Therefore, each employee is expected to become familiar with the contents of this Employment Policy Manual. Any questions about the policies and guidelines may be directed to an immediate supervisor, Department Director, or the City's Administrative Services Director.





## POLICY AND PROCEDURE

<b>SUBJECT:</b> Team Philosophy	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-15
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> New	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to establish a City of Shelton Team Philosophy.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

None.

### 4.0 POLICY AND PROCEDURE:

We are in the business of developing and protecting our community. Our work involves the roads people drive on, the buildings they live and work in, the parks they play in, and the water they drink. We are proud of what we do and we take our work seriously.

This document represents our team philosophy. It describes core values: The traits and qualities that represent our highest priorities and deeply held beliefs. The values form a foundation for everything that happens in the work place and are the core, fundamental forces that define our behavior. No doubt some of what is important is not mentioned here. We can add to this philosophy, but will not subtract from it.

### 5.0 PROCEDURE:

As employees and representatives of the City of Shelton, we are committed to these core values:

- 5.1 Stewardship. We are public servants. The community of Shelton entrusts us to care for its assets, its reputation and its future including: the citizens, the funds, the history, the roads and buildings, the parks, the land, the water and the natural resources. We will ensure that the public interest comes first, and that we do not advance our personal

interests at the expense of the public. We will plan imaginatively and pursue opportunities for tomorrow's citizens and their needs.

- 5.2 Integrity. Integrity, in the broadest sense, must lead our actions in all decisions and relationships, including those with citizens and each other. We will demonstrate sound moral and ethical principles on a daily basis. We will tell the truth, keep promises, respect the person and property of others, and abide by the requirements of the law.

We are a government. We cannot simply be right in our decisions, we have to look right too. We must be open in our communication and operate in such a way that it is easy for others to see actions that are performed. Taking advantage of loopholes, quick fixes, and basing our decisions on what we think we can get away with will compromise public trust in us. We won't allow it. We must do the right thing, even when it is painful or difficult.

- 5.3 Respect. We will treat every person with respect and dignity. Always.

We celebrate and embrace diversity and respect each person's individuality, opinions, feelings and unique talents. Our work place is shelter from violence, harassment of any kind, discrimination, retribution, bullying and abuse. Every person who comes in contact with a City of Shelton employee, including other employees, can expect honesty, fair dealing and courtesy. No amount of authority, status or power can excuse anyone in our organization from treating another with rudeness, humiliation or disrespect. Ever.

- 5.4 Accountability and Responsibility. Personal accountability is the basis of our commitment to each other and to the community. We strive to meet or exceed expectations, we account for our activities, accept responsibility for our behavior, and disclose the results in a transparent manner. We have the courage to admit mistakes and the limitations of our knowledge. We use feedback to improve performance, and we accept our contributions to problems and take responsibility to find solutions.

We honor our commitments and obligations to each other and to the community. We keep our word, and if circumstances prevent us from doing so, we don't pass the buck or make excuses. We are honest with each other. We commit to helping those around us succeed.

- 5.5 Creativity and Initiative. There is always room for improvement. We strive to be more efficient and are continuously looking for more innovative ways to do business. We are not afraid to take informed, responsible risk, to make mistakes, and to learn from them. We plan for and strive to be prepared for change. *We will never become complacent and accept the status quo just because that's the way things have always been done.* We will learn, adapt and figure things out. We approach situations and challenges with an open mind and strive to be creative in solutions.

- 5.6 Cooperation and Collaboration. We are one City. We freely join with colleagues to advance the interests of the community. Though we may work in different departments and different buildings, we must cooperate as if we have no separations or barriers. We

build strong, positive relationships that are open and honest, we listen actively, and we communicate frequently and in a way that enables and empowers others to make informed decisions.

We foster collaboration while maintaining individuality. We appreciate the value of multiple perspectives and diverse expertise. In almost all situations, collaboration is far more productive than competition. Together we can create solutions and outcomes that are far more creative, more workable, more rewarding than any solution or outcome we could come up with individually.

- 5.7 Leadership. We require leadership marked by the ability to see the big picture and a can do, get it done attitude. Leaders must be willing to take responsibility, solve problems, keep learning, growing and improving, inspire and motivate others, have the courage to make tough decisions as well as be open to new ideas, be committed to the success of others, and to building and maintaining trust. Leaders must model these behaviors and coach others to adopt them. We believe that everyone in this organization is a Leader. We expect managers to increase the authority and responsibility of those closest to the task and encourage employees to stretch their abilities to solve problems at their level.
- 5.8 Reputation. We will act consistent with our City Philosophy. We will strive to become known for our successful commitments to a safe, friendly, challenging, inspiring, productive, rewarding and value driven work place. And, we will strive to be known as the best municipal government in our region, one others look to for best practices and efficient service delivery.

Our success will be measured by our reputation both for what we do and how we do it. Our reputation is built by the daily acts of each employee in how we treat citizens and how we treat each other. We are our reputation.



## POLICY AND PROCEDURE

<b>SUBJECT:</b> City Organization and Structure	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-16
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> New	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to establish a City Organization and Structure.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

None.

### 4.0 POLICY AND PROCEDURE:

The City of Shelton operates under a council-manager form of government. The elected officials are the community leaders and policy makers who establish a vision for the city, and then appoint a City Manager to carry out public policy and ensure that all residents are being well-served. The City Manager coordinates the work of department heads and other employees, who help ensure the smooth and efficient delivery of services.

### 5.0 PROCEDURE:

#### City Manager's Office

The City Manager serves as the Chief Executive Officer of the City, is the City Council's chief policy advisor and is responsible for the proper administration of all City business. By building public/private partnerships, the City Manager targets all of the community's resources to solve current issues.

Key objectives of the City Manager's Office include, but are not limited to, establishing policies, procedures and guidelines as necessary for the control and supervision of the City, administering and enforcing all City ordinances, resolutions, and other City decisions, organizing City departments and the administrative structure, encouraging and supporting regional and intergovernmental cooperation,



promoting cooperation among the Council, staff and citizens in developing City policies and building a sense of community. Providing Council and staff with leadership and advice while implementing best practices to achieve adopted goals and delivering quality services to the community.

The City Clerk is part of the City Manager's Office and is responsible for staffing for the City Council and other Boards and Commissions. The City Clerk manages public record retention and requests.

#### Administrative Services

The Administrative Services Department is responsible for providing administrative and informational services to the City Council, City Manager and other City Departments and to the public. The department manages all human resources functions, employee relations, collective bargaining and labor relations. The department acts as the City's Claim Agent and is responsible for payroll, Information Technology, community events and outreach, risk management, and Title VI Civil Rights compliance.

#### Community Development

The Community Development Department is responsible for current and long range planning, building permitting and inspections, and code enforcement to support the Police Department and the coordinated growth and development of the community. The Department coordinates and provides services to reflect the community's vision for the future, the City's Comprehensive Plan, Capital Facilities Plan, and development regulations to ensure compliance with the Growth Management Act (GMA). The Department is responsible for enforcing the life and safety issues in the State Building Code and associated City amendments. The Department accepts and reviews building permit applications, issues permits, arranges inspections, and approves construction by issuing Certificate of Occupancy. The Department is also responsible for parks and trails, historic preservation, the Arts Commission and building facilities.

#### Financial Services

The Financial Services Department directs and manages all finance functions for the City by ensuring that the annual budget is developed and implemented as planned, conducts financial reporting, as well as overseeing investment activities, debt management, and general accounting activities. The department also provides purchasing services, ensures public small works projects meet City and State legal requirements, processes accounts payable and accounts receivable including utility billing payments, and oversees grant and contract tracking and management.

#### Police

The Police Department provides professional, quality law enforcement services to the Shelton community through education, enforcement, and community partnerships. Law enforcement officers perform essential law enforcement services for the citizens of Shelton, the local business community and their patrons, and to others visiting or traveling through the City. The Department also creates partnerships that enhance public safety education to the community, oversees the emergency management function for the City, maintains and updates the emergency response procedures and provides ongoing training to staff and other involved stakeholders.

### Public Works

The Public Works Department manages the design, construction, operation and maintenance of the community infrastructure of the City. This includes transportation, drinking water, wastewater, and surface water. The Department provides technical support to all City departments, is responsible for design of all capital and development project associated with new and existing infrastructure as well as for inspection of all construction activities associated with new and existing infrastructure.

### Municipal Court

The Shelton Municipal Court is responsible for the administration of justice in the City of Shelton, Washington, hearing and determining infraction cases and criminal offenses (misdemeanor and gross misdemeanor offenses) occurring within the city limits of Shelton. The court provides all traditional courtroom services such as Arraignment Hearings, Pre-trial Hearings, Trials (Bench and Jury) and Post Trial Hearings.



## POLICY AND PROCEDURE

<b>SUBJECT:</b> Core Ethics Policy	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-17
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> New	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to establish a Core Ethics Policy for the City of Shelton.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

None.

### 4.0 POLICY AND PROCEDURE:

The City of Shelton upholds, promotes and demands the highest standards of ethics from its employees in carrying out their public duties. Employees must build and maintain a relationship of trust and confidence with the community they serve, avoid any improprieties in their roles as public servants and must never use their City position or powers for personal gain or in breach of the public trust.

### 5.0 PROCEDURE:

#### Standards of Ethics Defined

The Team Philosophy provides City specific definitions of what is expected and required of City employees. City policies also outline important ethical standards relating to topics such as avoiding conflicts of interest, receiving gifts or favors, accepting outside employment, prohibiting discrimination and engaging in political activity.

In general, basic ethical conduct includes, but is not limited to:

5.1 *Stewardship:* Acting at all times in the best interests of the community we serve.

- 5.2 *Integrity:* Demonstrating excellence and honesty in our actions, decisions and relationships. Being dedicated to the highest ideals of honor and integrity in all public relationships.
- 5.3 *Respect:* Treating every person with respect and dignity, always.
- 5.4 *Accountability and Responsibility:* Striving to meet or exceed expectations and accepting responsibility for our actions. Conducting business of the City in a manner which is not only fair in fact, but also in appearance.
- 5.5 *Creativity and Initiative:* Striving to be more efficient and looking for innovative ways to do business, seeking to improve the quality and image of public service.
- 5.6 *Cooperation and Collaboration:* Building strong relationships, appreciating multiple perspectives, listening actively, and communicating frequently. Keeping the community informed about municipal affairs, encouraging communication between the citizens and municipal officers, and emphasizing friendly and courteous service to the public.
- 5.7 *Leadership:* Having a can do attitude, solving problems, inspiring and motivating others, having the courage to make tough decisions, and building trust. Being dedicated to the concepts of effective and democratic local government.
- 5.8 *Reputation:* Striving to become known for our successful commitments to a safe, friendly, challenging, inspiring, productive, rewarding and value driven work place. Affirming the dignity and worth of the services rendered by government and maintaining a deep sense of social responsibility as a trusted public servant.
- 5.9 Not knowingly violating any federal or state law, City ordinance or policy.

#### Employee Responsibilities

To comply with the ethical standards outlined in this policy, employees are expected to:

- 5.10 Read and understand the Employment Policy Manual.
- 5.11 Follow appropriate ethical behaviors as specifically set forth in the Employment Policy Manual, the Core Ethics Policy, the City's Team Philosophy and any other employment policy or City ordinance.
- 5.12 Seek guidance in resolving ethical issues or concerns from a supervisor, Department Director, or Administrative Services (Human Resources).
- 5.13 Report unethical conduct to their supervisor, Department Director or Administrative Services (Human Resources).

#### Supervisor Responsibilities

A supervisor's additional responsibilities for compliance with this policy include:

- 5.14 Monitoring and ensuring compliance with the Employment Policy Manual, this Core Ethics Policy or other employment policies, the City's Team Philosophy and City ordinances.
- 5.15 Setting an example of exemplary ethical conduct.



- 5.16 Dealing effectively with ethics concerns that arise in their area.
- 5.17 Prohibiting retribution or retaliation against any employee who reports or supplies information about, or assists in an investigation into, an ethics concern.



## POLICY AND PROCEDURE

<b>SUBJECT:</b> Conflicts of Interest	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-18
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> New	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to define conflicts of interest, to the extent possible, and establish a policy to avoid conflicts of interest.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

None.

### 4.0 POLICY AND PROCEDURE:

City of Shelton employees are expected to represent the organization in a positive and ethical manner. Employees have an obligation to avoid conflicts of interest or any activity which would give the appearance of a conflict of interest.

### 5.0 PROCEDURE:

#### Definition of Conflict of Interest

It is impossible to describe all of the situations that may cause or give the appearance of a conflict of interest. The following list is not intended to be exhaustive, but includes some clear examples.

- 5.1 Entering an employment relationship which competes with or creates a conflict of interest with a duty to the City.
- 5.2 Accepting gifts, gratuities, loans, entertainment or other items of value from anyone with whom an employee regularly transacts City business, who has or seeks a contract with the City, or who desires other official action from the City.

- 5.3 Giving, offering or promising anything of value to a customer, a potential customer, or a financial institution in connection with any transaction or business that the City may have with that customer, potential customer, or financial institution.
- 5.4 Misusing confidential City information or disclosing such information to any individual who does not have a need to know the information.
- 5.5 Using the City's name, account, or credit to purchase merchandise for personal use without prior approval from the City Manager or Department Director.
- 5.6 Using City assets or labor for personal use.

#### Receipt of Gifts

Generally, gifts received by a City employee at any time should be given to the employee's Department Director, with an explanation of the circumstances surrounding receipt of the gift. The Department Director will elect one of the following actions:

- 1. Return the gift to the sender with a written expression of thanks and an explanation of the City policy concerning gifts; or
- 2. Use the item within the framework of the City's operations; or
- 3. Take the item to a recognized charitable organization; or
- 4. Make the item available for the enjoyment of all employees in the work area.

Under limited circumstances the gift may be accepted as follows:

- 1. The item is of nominal value such as a pen or calendar.
- 2. The item, activity or meal is available to all participants as part of a conference or training.
- 3. The item is received as part of a contest or raffle open to all participants at a conference or training.
- 4. The item is modest, non-cash, gift from a citizen in appreciation for excellent service.
- 5. Meals may be purchased or provided for City employees at business meetings as long as there is a justifiable work-related purpose for the meeting.



## POLICY AND PROCEDURE

<b>SUBJECT:</b> Outside Employment	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-19
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> New	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to establish a frame work for outside employment by City employees.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

None.

### 4.0 POLICY AND PROCEDURE:

Employee may engage in paid outside employment, consulting work or other self-employment only if the work does not compete with or create a conflict of interest with an employees' duty to the City.

### 5.0 PROCEDURE:

#### When outside work "competes with" City employment

Outside employment competes with an employee's duty to the City when the work requires an employee's conduct to be disruptive or damaging to the City, and/or the City working environment. Examples of work that may be viewed as competing with City employment include those that:

- 5.1 May adversely affect job performance at the City, or an employee's ability to fulfill all job responsibilities at the City. Adverse effects may include but are not limited to poor job performance, fatigue or excessive absenteeism or tardiness.
- 5.2 Interfere with an employee's ability to work his/her normal schedule at the City, or prevents the employee from being available for work beyond normal working hours, such as emergencies or



peak work periods, when such availability is a regular part of the employee's job. Employees may not perform outside employment during hours they are on duty working for the City.

- 5.3 Interfere with responsibilities to the City as the primary employer.
- 5.4 Involve performing services for customers that are normally performed by City employees.
- 5.5 Require working for any organization that does business with the City.
- 5.6 May require the use of City information, property, facilities, equipment and/or systems.
- 5.7 Involve assisting others in transactions with the City in which the employee has participated, or which has been under their official responsibility.

#### When outside employment is a "conflict of interest"

Outside employment creates a conflict of interest with an employee's duty to the City when an employee engages in activities for personal gain that compromises the employee's ability to represent the City's best interests. Examples of activities that may create a conflict of interest include those that:

- 5.8 Require the use or disclosure of confidential City information.
- 5.9 Impair the objectivity or independent judgment, or create an impression of conduct that violates the public trust.
- 5.10 Involve activities which may appear to conflict with the City's Core Ethics policy and/or other employment related policies.
- 5.11 Negatively impact the normal course of the employee's official duties.

#### Approval to engage in outside employment

Employees must obtain approval to engage in outside employment prior to accepting the employment. To obtain authorization, employees must provide a written request to his/her supervisor. The request should include the dates of employment, the potential employer or, if self-employment, the name of the business, the type of work to be performed, any potential problems the outside employment may cause with City employment, and any actual or perceived competition or conflicts of interest with City employment. The City shall have sole discretion to determine whether the request should be approved.

If outside employment is approved, the City may require a written agreement which outlines the type of work that has been approved, discusses any perceived conflict of interest as well as how it may be eliminated, and addresses any other conditions of approval the City may require.

If any employee accepts outside employment, the employee may be required to provide information about the employment at any time.

#### Leave benefits and outside employment

Use of accrued sick leave hours or FMLA leave concurrent with outside employment must be approved by the City.

**The City Manager may require individuals to cease outside employment if the work begins to compete with or a conflict of interest arises during the course of the employment.**



## POLICY AND PROCEDURE

<b>SUBJECT:</b> Nepotism	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-20
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> New	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to establish a nepotism policy.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

None.

### 4.0 POLICY AND PROCEDURE:

Employees who are dating or are in the same family or other covered relationship may be employed by the City unless such employment would create a real or potential conflict of interest. This policy is necessary to avoid the reality or appearance of improper influence or favoritism.

### 5.0 PROCEDURE:

#### Covered Relationships

For the purposes of this policy, relationships include employees dating each other, the employee's spouse, domestic partner, child, domestic partner's children, mother, father, brother, sister, step family, mother-in-law, father-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, grandparents and grandchildren, and grandparents and grandchildren of the spouse or member of the employee's household, other than roommates.

#### Notification

Employees must inform his/her supervisor or Administrative Services Director immediately if they enter into a relationship which may create a conflict of interest under this policy.

### Conflict of Interest

A conflict of interest exists where the City has a compelling and essential need to avoid a business-related conflict or the reality or appearance of improper influence or favor. A conflict of interest always exists under the following circumstances:

1. Where one of the individuals would have the authority or practical power to supervise, appoint, remove, or discipline the other.
2. Where one of the individuals would be responsible for leading, auditing, overseeing, or guiding the work of the other.

### Resolving conflicts of interest

If City employees establish a relationship as defined in this policy and a conflict or potential conflict exists due to the new relationship, the City will attempt to find a suitable accommodation to eliminate the conflict. If accommodations are not feasible, the employees will be given thirty (30) calendar days to determine which of them will resign. If no decision is made at the end of the thirty (30) calendar day period, the City shall make the decision.

If a nepotism situation should occur with an employee and a policy level official, and circumstances exist that might lead to perceived or potential conflict among the parties, departments or the best interest of the City and its citizens, the policy level official shall exclude themselves from discussing, becoming involved in, or voting on issues surrounding the department in which the employee is classified, including the budget.





## POLICY AND PROCEDURE

<b>SUBJECT:</b> Political Activities	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-21
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> New	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to establish a policy regulating employee political activity during work hours.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

None.

### 4.0 POLICY AND PROCEDURE:

Employees shall not use or authorize the use of City facilities, property or assets for working on campaigns for the election of any person to any office or for the promotion of, or opposition to, any ballot proposition, except as authorized by state law. Similarly, employees shall not use their official position to unlawfully influence, interfere with or affect the results of an election.

### 5.0 PROCEDURE:

#### Types of activities prohibited

City employees are prohibited from using their official position to unlawfully influence, interfere with, or affect the results of any election. Therefore:

1. No employee, or group of employees, representing themselves as City employees, shall campaign for or against any political candidate or ballot measure, or endorse or oppose a political advertisement, broadcast, statement or campaign literature except as allowed by state labor law.

2. Employees shall not display or distribute partisan literature, political buttons, stickers, banners, etc., during work hours or at a City facility or in City vehicles.
3. No employee may solicit contributions for partisan political purposes on City property.

Nothing in this policy prohibits a City employee from personally supporting or opposing any candidate for public office, ballot measure or other political campaign during off-duty hours.

Holding public office

No employee of the City may hold a part time public office of any political subdivision of the state when holding such office is incompatible with, or substantially interferes with the discharge of official duties of his/her job.



## POLICY AND PROCEDURE

<b>SUBJECT:</b> Solicitation for Charities and Fundraisers	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-22
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> New	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to establish a policy regulating solicitation for Charities and Fundraisers.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

None.

### 4.0 POLICY AND PROCEDURE:

Most forms of solicitation on City property or during work time are prohibited. The City may, in its sole discretion, make exceptions to this policy when it is determined to be in the best interest of the City.

### 5.0 PROCEDURE:

#### Solicitation defined

"Solicitation" is the requesting of an employee's time or resources for any cause, whether by an individual or group, and regardless of whether for financial or non-financial reasons. Solicitation may involve individuals or groups engaging in direct sales, recruitment, placing of signs and posters, and other activities resulting in the anticipated benefit of the individual or group.

#### Solicitation permitted

Employees may solicit contributions to charitable or non-profit community, youth or educational fundraisers so long as it does not cause undue distractions or disruptions of the work environment.

The use of City facilities or equipment to solicit contributions (e.g. electronic mail, bulletin board postings) requires the prior authorization from the Administrative Services Director.





## POLICY AND PROCEDURE

<b>SUBJECT:</b> Whistleblower Program	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-23
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> New	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to define whistleblower and to establish a policy and program regarding whistleblower actions.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

None.

### 4.0 POLICY AND PROCEDURE:

Public employees have an obligation to assure that government in general, and their departments in particular, perform ethically as well as efficiently and effectively. City employees are prohibited from engaging in improper governmental action and are encouraged to report suspicious, unethical or illegal conduct or any other suspected improper governmental action taken by other employees, supervisors, or officers. Employees who make good faith reports of improper governmental action will be protected from intimidation or retaliation for making a report.

### 5.0 PROCEDURE:

#### Whistleblower:

A "whistleblower" is an employee who reports improper governmental action in good faith as outlined in this policy, OR an employee who is perceived as making such a report whether they did or not. A report is not made in good faith if the employee knowingly provides false, malicious or frivolous information, recklessly disregards the truth or omits relevant information.

### Improper governmental action

Any action by a City officer or employee in the performance of their official duties, whether or not the action is within the scope of job duties, and that is in violation of any federal, state or local law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds. Improper governmental action does not include personnel action such as employee grievances, complaints, appointments, promotions, performance evaluations, reductions in pay, corrective or disciplinary action, violations of collective bargaining and civil service laws, or alleged labor agreement violations.

### Whistleblower Program defined

The Whistleblower Act was enacted by the Washington State Legislature to protect local government employees who make good faith reports of improper government action and to provide remedies for such employees who are subjected to retaliation for having made such a report. The purpose of the City's Whistleblower Program is to:

1. Hold City employees responsible for their actions; and
2. Provide a process for reporting improper governmental actions; and
3. Protect employees who make good faith reports of improper governmental action; and
4. Stop inappropriate and illegal government actions.

### Reporting Improper Governmental Actions

Any City employee may report suspected improper governmental actions through the Whistleblower Program. This includes regular and temporary employees as well as elected officials.

City employees who become aware of improper governmental actions should take the following steps:

1. Raise the issue with their Department Director, the Administrative Services Director or the City Manager as soon as the employee becomes aware of the improper action(s).
2. If requested, the employee shall submit a written report describing the suspected improper governmental action, the name of the employee(s) involved, and when the action occurred.

An employee may report the suspected improper governmental action directly to the County Prosecuting Attorney in the following situations:

1. Where there is an immediate risk of serious injury or damage to property.
2. When an employee reports a suspected governmental action to the appropriate person in the City and no action is taken.
3. When the employee reports a suspected governmental action to the appropriate person in the City and is not satisfied with the action taken.

### Confidentiality

The identity of a reporting employee and witnesses in any resulting investigation of the report shall be kept confidential to the extent possible under law, unless the employee authorizes disclosure of his/her identity in writing.

### City Response to Report of Improper Governmental Action

Upon receipt of a report of improper governmental action, the City will conduct an investigation according to the City's Investigation Policy. If it is determined that improper governmental action did occur the City will take necessary action to resolve the matter and prevent it from recurring.

### Intimidation and Retaliation are Prohibited

City officials and employees are prohibited from intimidating or taking retaliatory action against a City employee because he or she has in good faith reported an improper governmental action.

Intimidation occurs when a City employee, Department Director, supervisor or officer uses his/her official authority or influence to threaten or to coerce an employee for the purpose of interfering with the employee's right to report improper governmental action(s).

Retaliation is inflicting injury on an employee by making adverse changes to employment status or to the terms and conditions of employment because the employee made a report of improper government action or was believed to have made a report of improper governmental action. Examples of retaliatory action include, but are not limited to, unwarranted disciplinary action, unsubstantiated poor performance evaluations, reduction in pay, denial of promotion, unwarranted termination of employment, or harassment.

### Reporting Intimidation or Retaliation

Employees who believe that they have been intimidated or retaliated against for reporting an improper governmental action should provide a written report to the Department Director, the Administrative Services Director, or the City Manager. The notification should specify the alleged retaliatory action and the relief requested.

If an employee complains about intimidation or retaliation and is not satisfied with the City response, he/she may request a hearing before a state administrative law judge. To be eligible for a hearing the following conditions must be met:

1. The complaint of intimidation or retaliation was made within 30 days of the alleged action; and
2. The City did not respond within 30 days of the complaint or the employee received a response within 30 days but was not satisfied with the response.

The request for hearing must be delivered to the Administrative Services Director or the City Manager's Office within 15 days of receiving the response from the City or within 15 days of the last day on which the City could respond to the complaint (30 days).

### Management Responsibilities

As with any policy, supervisors and Department Directors are responsible for enforcement. Under this particular policy, supervisors and Department Directors are required to report any knowledge of improper governmental action to the Administrative Services Director or City Manager including, but not limited to, a complaint received from an employee.

**This policy and procedure was created and adopted pursuant to the provisions of the Revised Code of Washington, Chapter 42.41, et. Seq.**

### **Municipal, County and State Enforcement Agencies**

Current as of September 2019 – please refer to individual listing for updates

#### **City of Shelton**

Kathleen Haggard – City Attorney: 206.622.0203

#### **Shelton Police Department**

For Emergencies: 911

For non-emergencies: 360.426.4441

#### **Mason County**

<b>AGENCY</b>	<b>ISSUES</b>
Mason County Public Health and Human Services 415 N. 6th Street, Shelton, WA 98584 360-427-9670 ext. 400	To report a public health concern relating to: septic system failure and surfacing sewage, hazardous waste, water wells, mold, mosquitos or other environmental health.
Olympic Region Clean Air Agency 2940-B Limited Lane NW Olympia, WA 98502 (360) 539-7610	To report complaints relating to air quality such as outdoor burning, asbestos or lead.
Mason County Prosecuting Attorney 411 N 5th St Shelton WA 98584 (360) 427-9670	To report criminal activity.

Washington State

AGENCY	ISSUES
Washington State Auditor's Office 360.902.3900 <a href="http://www.sao.wa.gov">www.sao.wa.gov</a>	To report improper governmental actions (within policy restrictions).
Washington Department of Ecology 360.407.6300 <a href="http://www.ecy.wa.gov">www.ecy.wa.gov</a>	To report spills and other environmental problems involving water, air, waste, cleanup or toxic hazards.
Department of Labor and Industries 360.896.2300 or 800.423.7233 <a href="http://www.lni.wa.gov">www.lni.wa.gov</a>	To report workplace safety concerns.
Washington Human Rights Commission 800.233.3247 <a href="http://www.hum.wa.gov">www.hum.wa.gov</a>	To report discrimination because of race, creed, color, national origin, sex, marital status, age or disability, sexual harassment or whistleblower workplace retaliation.
Public Employee Relations Commission 360.570.7300 <a href="http://www.perc.wa.gov">www.perc.wa.gov</a>	To report unfair labor practices, interference with rights to form or join an employee labor organization and rights to bargain collectively.





## POLICY AND PROCEDURE

<b>SUBJECT:</b> Social Media	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-24
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> New	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to establish appropriate social media use by City employees.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

None.

### 4.0 POLICY AND PROCEDURE:

Social media is changing the way we work and communicate with friends, citizens, co-workers and the world at-large. The City encourages an open and expressive environment, but at the same time is responsible for protecting the privacy of our employees, the security of City information and the public trust. This policy provides guidelines for employees in the use of personal social media sites.

### 5.0 PROCEDURE:

#### Social Media:

Social Media is on-line communications that allow for communication in the open. Examples include, but are not limited to, electronic mail, blogs, and social networking sites like Facebook, Twitter and LinkedIn, media sharing sites like YouTube and Flickr, and information authoring sites (wikis) like Wikipedia.

These general guidelines will be followed when using personal social media:

*Use common sense.* Perception is reality and in on-line social networks, the lines between public and private, personal and professional are blurred. Just by identifying yourself as a City employee you are creating perceptions about your expertise and about Shelton.

*Be responsible.* Make sure that what you're saying is factually correct, and that it doesn't violate any policy guidelines that prohibit revealing confidential information. Don't use pictures or videos of official City training, activities or work-related assignments without prior authorization.

*Use Respect.* What you say on-line is a permanent record, so don't post and/or disseminate information that would tend to discredit or reflect unfavorably on the City or any of its employees.

*Use restraint.* Only comment on issues of general or public concern if the comments will not disrupt the workplace, interfere with important working relations or efficient work flow, or undermine public confidence. Issues of public concern are those matters of interest to the community as a whole, whether for social, political or other reasons. Employees may express opinion on issues of public concern to state or local officials regardless of the impact on the workplace.

*Represent yourself, not the City.* Don't attribute personal statements, opinions or beliefs to the City and do not give the impression that they are speaking or acting on the City's behalf. The City's logo, letterhead or other material, including a photograph of the employee wearing or displaying the City's logo are not to be communicated via social media.

*Follow City policies.* The City's policies regarding harassment prevention and violence fully apply to the use of the internet, including social media and blogging.



## POLICY AND PROCEDURE

<b>SUBJECT:</b> Media	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-25
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> New	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to establish appropriate contact with the media.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

None.

### 4.0 POLICY AND PROCEDURE:

It is in the City's best interest to maintain a cooperative relationship with the news media. Positive news coverage assists in the City's development, community relations, special event publicity, mission and recruitment.

### 5.0 PROCEDURE:

#### City Spokesperson:

The City Manager, or designee, shall be responsible for all comments and information within all channels or official contacts with the news media, including answering of questions from the media. The City Manager may authorize specific employees to give out procedural, factual, or historical information on an ongoing basis, on particular subjects or on specific incidents. In all other situations media inquiries should be referred to the City Manager's office.

Off the Record:

Despite any media assurances to the contrary, nothing is “off the record”. Any statement that a City employee makes to the media is subject to broadcast and/or publication. Similarly, any statement made to the media during working hours or as a representative of the City is made on behalf of the City.

Employees who wish to make a personal statement or express a personal opinion to the media must do so outside of working hours.



## POLICY AND PROCEDURE

<b>SUBJECT:</b> Legal Review	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-50
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> Policy 100-50 dated June 9, 2008	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

The purpose of this policy is to provide for effective legal review of City Policy documents, including Ordinances and Resolutions, that are intended for presentation to the City Council.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

Shelton Municipal Code 2.20.

### 4.0 POLICY AND PROCEDURE:

It is the policy of the City of Shelton to secure professional review of certain policy documents prior to consideration by the Shelton City Council for formal action.

### 5.0 PROCEDURE:

#### 5.1 Responsibility

- 5.1.1 The City Attorney shall provide legal review on matters being presented to the City Council in accordance with this policy.
- 5.1.2 The City Attorney is expected to provide competent review on matters of law when such matters are beyond the professional capacity of administrative staff as detailed in Sections 5.2 and 5.3.

5.2 Review Required: The City Attorney shall provide legal review on all documents being presented to the City Council for a decision except as detailed in Section 5.3.



5.3 Review Exceptions: Administrative staff shall decide whether the following are to be referred to the City Attorney for review prior to presentation to the City Council at a regular business meeting. Nothing herein shall preclude the City Council from ordering legal review regardless of any contrary recommendation.

- 5.3.1 Template Contracts. Administrative staff may fill in blank spaces (e.g. dates, organization names, or similar) on template contracts that have been previously approved by the City Attorney. Any changes other than those described above shall require legal review by the City Attorney.
- 5.3.2 Grant applications and grant commitments.
- 5.3.3 Loan applications.
- 5.3.4 Bid awards.
- 5.3.5 Standardized contracts used by other governmental organizations.



## POLICY AND PROCEDURE

<b>SUBJECT:</b> Exceptions	<b>GROUP:</b> Administration	<b>NUMBER:</b> 100-90
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> Policy 100-90 dated July 8, 2010	
<b>PREPARED BY:</b> Jeff Niten	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

To provide for exceptions to City of Shelton policies and Procedures, and to provide for amendments to City Council adopted City policies.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

City of Shelton Protocol Manual adopted by Council via Ordinance 1936-0119 on January 2, 2019. City policy 100-10.

### 4.0 POLICY AND PROCEDURE:

It is the policy of the City of Shelton for its employees to work as efficiently and effectively as possible. It is also the City policy to follow directives adopted by the City Council including the City's Policies and Procedures, which implement Council policies, and those Policies of Senior Branches of Government (State of Washington and the United States).

Situations may arise that were not contemplated when City Council Policies or Administrative Policies were first approved and implemented. Occasionally, these decisions result in unnecessary inefficiencies or contradictions to other adopted policies. This Exceptions policy is intended to account for this infrequent situations and to allow for amendment or repeal of a particular policy.

### 5.0 PROCEDURE:

5.1 Responsibility The City Manager and Department Directors are responsible for the administration of this policy.

## 5.2 Definitions:

- 5.2.1 “Administrative Policy” – A Policy and Procedure approved by the Shelton City Manager for the City of Shelton.
- 5.2.2 “City Policy” – A policy adopted and/or approved by the Shelton City Council.
- 5.2.3 “Policy Opportunity” – This includes an Administrative Policy that is judged to be unnecessarily inefficient, inconsistent with other Administrative Policies, or contrary to City Policies or the policies of a senior branch of government. A Policy Opportunity also includes City Policies that are determined to be unnecessarily inefficient or inconsistent with other City Policies.
- 5.2.4 “Policies of a Senior Branch of Government” – They include, but are not limited to, legislative, regulatory, or judicial mandates from senior branches of government. For example, Federal or State policies.
- 5.2.5 “Senior Branch of Government” – This includes the State and Federal government including their agencies and departments.
- 5.2.6 “Stakeholders” – Stakeholders are Department Heads whose responsibilities would or might be affected by a change to a City Policy or Administrative Policy.

## 5.3 Intent

- 5.3.1 It is the intent of this policy to facilitate a review and possible change to City Policies and/or Administrative Policy when the City Council or City Manager determines a Policy Opportunity exists.

## 5.4 Reporting

- 5.4.1 Whenever a Shelton City Employee becomes aware of a Policy Opportunity, the employee is encouraged to report the Policy Opportunity to his or her Department Head through their supervisor.
- 5.4.2 If, following review of the Policy Opportunity, the Department Head determines that a change in policy would produce an outcome beneficial to organizational operations the Department Head shall advise the City Manager. The Department Head may use their discretion to recommend a new policy or propose an amendment to existing policy.
- 5.4.3 The Department Head shall consult with all Stakeholders prior to advising or recommending a course of action to the City Manager.

## 5.5 Action

- 5.5.1 Upon notice that a Policy Opportunity exists, the City Manager shall undertake a review of the affected policy including recommendations from Stakeholders.

- 5.5.2 The City Manager will consult with Stakeholders and conduct research from other sources to determine if a change to approved and/or adopted policy would result in a beneficial outcome for the organization.
- 5.5.3 Following the review described immediately above, the City Manager shall reject the change in policy, or facilitate the change to Administrative Policy or, if applicable, recommend a change in City Policy to the City Council.
- 5.5.4 In an emergency situation, the City Manager may, in his or her discretion, authorize an immediate exception to Administrative Policy, so long as the benefit is clear and documented, and the decision immediately follows the process of an amendment to Administrative Policy reflecting the decision.



## POLICY AND PROCEDURE

<b>SUBJECT:</b> Fund Balance	<b>GROUP:</b> Finance	<b>POLICY NO:</b> 300-18
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERCEDES:</b> 300-18, Dated August 13, 2015	
<b>PREPARED BY:</b> Aaron BeMiller	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

This policy establishes the amounts the City will strive to maintain in fund reserves, how the reserves will be funded, and the conditions under which reserves may be used.

### 2.0 DEPARTMENTS AFFECTED:

All departments.

### 3.0 REFERENCES:

*Government Finance Officers Association Best Practice*

### 4.0 DEFINITIONS:

The City classifies available fund balances for specific purposes in accordance with the Government Accounting Standards Board (GASB) Statement #54.

*Non-Spendable* – Resources that cannot be spent because of form (e.g. inventory, prepaid amounts) or because they must be maintained intact.

*Restricted* – Resources with limitations imposed by creditors, grantors, laws, regulations, or enabling legislation.

*Committed* – Resources that can only be used for specific purposes pursuant to constraints imposed by formal action of the highest level of decision-making authority, e.g., the City Council. These amounts can not be used for any other purpose unless the City Council removes or changes the specified use by taking the same action it employed to previously commit the amounts.

*Assigned* – Resources that are intended to be used for specific purposes, but is neither restricted nor committed.



Unassigned – Resources that are not non-spendable, restricted, committed or assigned to specific purposes.

## 5.0 POLICY

Fund balance is an important indicator of a city's financial position and maintaining reserves is a prudent management practice. Adequate fund balances are maintained to allow the city to continue providing services to the community in case of unexpected emergencies, unfunded mandates, and/or economic downturns. They may also be used to meet seasonal cash flow shortfalls as needed. The City's Finance Department is charged with ensuring compliance with all fund balance policy requirements. The City has determined targeted fund balances for specific funds as outlined below:

Fund	Fund Balance Policy
General Fund	Sixteen Percent (16%) of Current-Year Budgeted Expenses
Street Fund - Unrestricted	Sixteen Percent (16%) of Current-Year Budgeted Expenses
Water Operating Fund	Twenty Percent (20%) of Current-Year Budgeted Operating Expenses
Sewer Operating Fund	Twenty Percent (20%) of Current-Year Budgeted Operating Expenses
Storm Drainage Operating Fund	Twenty Percent (20%) of Current-Year Budgeted Operating Expenses

- 5.1 General Fund – In an effort to ensure the continuance of sound financial management of public resources, the City of Shelton's Unassigned General Fund balance will be maintained to provide the city with sufficient working capital and a comfortable margin of safety to address emergent needs, sudden loss of revenue, and unexpected downturns without borrowing. This policy establishes the amounts the city will strive to maintain in its General Fund balance, the conditions under which fund balance may be spent, and the method by which fund balances will be restored. These amounts are expressed as goals, recognizing that fund balance levels can fluctuate from year to year in the normal course of operations for any local government. The city will strive to maintain a General Fund "operating reserve" with an upper goal of 16% of the adopted current-year budgeted General Fund expenditures, less any one-time items. It is

the intent of the City to limit the use of Unassigned General Fund balances to addressing unanticipated, non-recurring needs or known and planned future obligations.

The Operating Reserve is intended to be a reserve for unexpected events such as unfunded mandates, the failure to receive expected revenues, the continuance of critical City services due to unanticipated events, or to offset the unexpected loss of a significant funding source for the remainder of the fiscal year. Any use of Operating Reserve funds that reduce the fund balance below the minimum desired level must include a repayment plan to restore the Operating Reserve to the minimum desired level.

Fund balances shall not normally be applied to recurring annual operating expenditures. Unassigned balances may, however, be used to allow time for the city to restructure its operations in a deliberate manner, but such use will only take place in the context of long-term financial planning.

Funds in excess of the reserves described above will be Unassigned General Fund Balance, unless otherwise assigned in accordance with GASB Statement #54, and may be considered to supplement “pay as you go” capital outlay and other one-time expenditures. These funds may not be used to establish or support costs that are recurring in nature.

The Finance Director is authorized to classify available fund balance for specific purposes in accordance with GASB #54. It is the policy of the city that expenditures for which more than one category of fund balance may be used, the order of use will be:

- Restricted Fund Balance.
- Committed Fund Balance.
- Assigned Fund Balance.
- Unassigned Fund Balance.

- 5.2 Other Funds – In a manner similar to the General Fund, the City desires to maintain a prudent level of financial resources in its other funds including; Enterprise Funds, Special Revenue Funds, and Self-Insurance Funds, to guard its stakeholders against service disruptions in the event of unexpected temporary revenue shortfalls or unpredicted one-time expenses. Fund reserves are accumulated and maintained to provide stability and flexibility to respond to unexpected adversity and/or opportunities. It is the intent of the City to limit use of these fund reserves to address unanticipated, non-recurring needs. Reserves shall not normally be applied to recurring annual operating expenses. However, Reserves may be used to allow time for the City to restructure its operations in a deliberate manner (as might be required in an economic downturn), but such use will only take place in the context of long-term financial planning. Unless

otherwise noted, all parameters of the General Fund Balance are also applicable to all other fund balances.

- 5.3 Pooled Cash Method – In order to provide liquidity adequate to meet the needs and demands of providing government services, including unanticipated reductions in revenues or unplanned increases in expenses, reserve levels will be maintained and managed through the “Pooled Cash Method” in such a way as to minimize short-term borrowing. This reduces overall cost to taxpayers by minimizing interest expense. The reserves are intended to support this effort and counterbalance cycles that are experienced in fee and other revenue collections.
- 5.4 Funding the Reserves – Funding of reserve targets will generally come from excess revenues over expenses or one-time revenues.
- 5.5 Excess of Reserves – Reserves for specific funds are restricted for the activities of that fund under GASB principles with the exception of the General Fund, which can be used for any good government purpose. In the event fund reserves exceed the minimum balance requirements at the end of each fiscal year, any excess reserves may be used in the following ways:
- Fund Accrued Liabilities – Priority will be given to those items that relieve budget or financial operating pressure in future periods.
  - Appropriated to lower the amount of bonds or contributions needed to fund capital projects in the City’s Capital Improvement Program.
  - One-time expenses that do not increase recurring operating costs that cannot be funded through current revenues. Emphasis will be placed on one-time uses that reduce future operating costs.
  - Start-up expenses for new programs, if such action is approved by the City Council and is considered in the context of multi-year projections of revenue and expenses as prepared by the City’s Finance Department.
- 5.6 Periodic Review – The Finance Department will periodically review this policy.



## POLICY AND PROCEDURE

<b>SUBJECT:</b> Access to Confidential Information	<b>GROUP:</b> Finance	<b>POLICY NO:</b> 300-27
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERSEDES:</b> New	
<b>PREPARED BY:</b> Aaron BeMiller	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

To provide a framework through policy for access to confidential tax information.

### 2.0 DEPARTMENTS AFFECTED:

All Departments.

### 3.0 REFERENCES:

*Public Records Act – RCW 42.56*

*Confidential Excise Tax - RCW 82.32.330 – Defines covered confidential excise tax information and the circumstances under which such information can be provided by the Department of Revenue to, and used by, authorized state agency and local government elected officials and employees.*

### 4.0 DEFINITIONS:

*Authorized Employee* – A City employee who has been authorized to receive tax-related information by the Finance Director or their designee, and through the execution of a Tax and License Confidentiality Affidavit if required by the *Department of Revenue*.

*Tax-related Information* – The taxpayer's identity, the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liability, net worth, tax liability deficiencies, over-assessments, or tax payments, whether taken from the taxpayer's books and records or any other source, which information is obtained by the Department of Revenue or the City for an identifiable taxpayer, and relates to the following excise or other taxes imposed, and collected by either the Department of Revenue or the City:

- Sales and Use tax
- Brokered Natural Gas Use tax.
- Lodging Tax.
- State and City Business & Occupation tax.
- State Public Utilities Tax and City Utility taxes.
- Leasehold Excise tax.
- City Gambling tax.
- Tax-related information also means and includes tax returns and their referenced schedules or attachments.

Department of Revenue – The Washington State Department of Revenue.

Information Sharing Agreement – The City of Shelton Data Sharing Agreement for Tax/Licensing Information between the Department of Revenue and the City.

Tax and License Confidentiality Affidavit – The Department of Revenue agreement executed by the City employee to receive confidential excise tax information, and provided to the Department of Revenue enabling the employee to have access to confidential information. The Affidavit also includes a section for business license information, which is not applicable because the City is not a member of the Department of Revenue Business License System.

Tax-Related Information-Confidential – Tax-related information is confidential and privileged, and except as authorized by this policy, applicable law, or by the Finance Director or their designee, no employee may disclose tax-related information to any person who is not the applicable taxpayer or its designee, an authorized representative of the Department of Revenue, or an authorized employee. It is not a violation of this policy to provide tax-related information to any person if that disclosure is not related to a specific or identifiable taxpayer, or if all identifying information of the taxpayer can first be redacted and protected.

## **5.0 POLICY:**

This policy addresses City staff access and use of tax-related information, but shall in no way inform any disclosure decisions made to requests submitted under the Public Records Act, which decisions are controlled entirely by the Public Records Act, Chapter 42.56 RCW. Records and information that are internally confidential under this policy may be subject to disclosure, in whole or in part, under the Public Records Act. This policy addresses the following:

### **5.1 Collected by the Department of Revenue**

- Sales and Use Tax
- Brokered Natural Gas Use Tax
- Lodging Tax
- State Business & Occupation Tax
- State Public Utilities Tax
- Leasehold Excise Tax



5.2 Collected by the City of Shelton

- City Business & Occupation Tax
- Gambling Tax
- Utility Taxes (telephone, natural gas, electric, cable television, water, sewer and drainage)

5.3 City Business Licensing Information

- Overarching Disclosure Considerations – Unless otherwise authorized by RCW 82.32.330, Confidential Excise Tax Information may only be shared with City employees that have a duly authorized and executed Tax and License Confidentiality Affidavit on file with the Department of Revenue.
- Confidential City Business & Occupation Tax Information – may only be shared with City employees that have been authorized by the Finance Director or their designee to receive this information. Such information may be provided to the Mayor and members of the Shelton City Council or their authorized designees dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions.

**6.0 ACCESS TO TAX-RELATED INFORMATION:**

6.1 State Excise Tax Information – RCW 82.32.330 defines under what circumstances City employees and representatives may obtain tax-related information from the Department of Revenues concerning certain excise taxes.

6.2 Information Sharing Agreement – This process requires the execution, and filing, with the Department of Revenue of a Tax and License Confidentiality Affidavit, which in part acknowledges the confidential nature of the information being shared or provided. If an employee requires access to excise tax information from the Department of Revenue, the Finance Director or their designee will:


- Coordinate the execution and maintenance of the Information Sharing Agreement and the Tax and License Confidentiality Affidavit, including any subsequent amendments to those agreements.
- Educate the authorized employee regarding the confidential nature of the tax-related information and the requirements of RCW 82.32.330.
- Arrange for the authorized employee to obtain access to the tax-related information received from the Department of Revenue.

6.3 City B&O Tax Information – The Finance Director or their designee is authorized to grant employee access to City B&O tax-related information. These authorized employees are not required to execute an agreement, affidavit, or other document prior to being provided access. However, they are expected to understand and adhere to the confidentiality requirements of RCW 82.32.330, and this policy.

6.4 Explicit Authorization – It is not required for employees to access information that is readily available to them by nature of their positions with the Finance Department or the City. Examples include:

- An employee with access to the City's accounting system because taxpayer information is recorded through separate address numbers in the system.
- Customer Services employees receipting City B&O tax payments.
- Appropriate staff associated with evaluating City economic development activities.

6.5 Other City Tax and Business License Information – Generally, only tax-related information concerning federal income tax, state excise tax, and City B&O tax is confidential and privileged. However, City staff should exercise due care in the handling of tax-related information to prevent any unnecessary disclosure.

	<h1>POLICY AND PROCEDURE</h1>	
<b>SUBJECT:</b> Fee Waivers	<b>GROUP:</b> Finance Department	<b>POLICY NO:</b> 300-31
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERSEDES:</b> New	
<b>PREPARED BY:</b> Aaron BeMiller	<b>APPROVED BY:</b> Jeff Niten	

## 1.0 PURPOSE:

This policy establishes the guidelines, requirements and procedures regarding granting waiver of fees or other moneys due to the City for goods and/or services related to the following areas:

- Dollar limits based on the types of fees and/or maximum dollar amounts of waiver.
- Authority for waiver of fees.
- Documentation of waiver of fees.

## 2.0 DEPARTMENTS AFFECTED:

All Departments.

## 3.0 REFERENCES:

*This policy is supplemental to selected municipal revenue requirements as outlined by the following:*

- *Washington State Constitution – Article XIII Section 5, Credit Not to be loaned.*
- *Washington State Constitution – Article XIII Section 7, Credit No to be loaned.*
- *RCW 82.32.050 Deficient Tax or Penalty Payments.*
- *RCW 35.21.300 Utility Services – Enforcement of Lien (Water Utility)*
- *RCW 35.67 Sewerage Systems – Refuse Collection and Disposal*
- *RCW 35.49 Local Improvement Districts – Collection of Assessments*
- *RCW 35.50 Local Improvement Districts – Foreclosure of Assessments*
- *Shelton Municipal Code – Titles 1 through 21*

## 4.0 DEFINITIONS:

*Fee Waiver* – *The City voluntarily giving up its right to collect Eligible Fees for goods or services provided by the City to a person, firm or corporation.*

Originating Department – The department that provides the goods or services subject to fee waiver or account write-off.

Account – The responsible person, firm, or corporation responsible for payment for City goods or services provided.

Eligible Fees – Fees and other charges for services established by the Shelton Municipal Code or related duly authorized fee schedules that are not otherwise already exempt from collection pursuant to state statute, the City Code, or related duly authorized fee schedules.

Principle – The amount owed to the City prior to addition of penalties, finance charges, interest or other delinquency fees.

Penalties – A stated dollar amount or stated percent of amount owed due of principle amount due not paid by the due date.

Interest/Finance Charges – A stated percentage of principle, interest and accumulated other delinquency fees not paid by the due date.

Other Delinquency Charges – A stated dollar amount or percentage of amount owed. Examples include; water turn-on fees, collection agency fees and lien filing fees.

## **5.0 POLICY:**

Fee waivers are not the same as account write-offs, and the expectation is that fee waivers will be extremely limited. It shall be the responsibility of each department to ensure:

- If not already established through the Shelton Municipal Code or through City policies and procedures, proper departmental standard operating procedures (SOPs) governing fee waivers exist. These policies and procedures should include; provisions designed to ensure that fee waivers are properly authorized, appropriate, valid and documented.
- All fee waivers are properly authorized, documented and adhere to the requirements established by the Washington State Constitution, state statute, Shelton Municipal Code and departmental SOPs.

### **5.1 Specific Considerations:**

Waiver of Fees – examples include, but are not limited to, the following:

- Reductions of amounts owed attributed to negotiated settlements, e.g. damage to City infrastructure or equipment.
- City water, sewer and storm drainage utility account delinquency fees.
- Certain parks and recreation fees, e.g. reciprocal use agreements.
- Certain land use, building permit or similar fees, e.g. temporary use and street use permit fees.
- These fee waivers are typically based on an individual customer basis or on a type of customer basis (e.g., not-for-profit organization).

- 5.2 The State Constitution prohibits the gifting of public funds except for the necessary support of the poor and infirm unless the state agency or local government can demonstrate:
- That it acted without a donative intent.
  - That the action will result in a significant benefit to the public.
- 5.3 Pursuant to state statute, there are certain types of fees imposed by the City that cannot be waived including, but not limited to, the following:
- Interest due for delinquent City Business & Occupation Tax remittances (RCW 82.32.052).
  - Local Improvement District assessments (Chapter 35.49 and 35.50 establish lien against benefitted real property).
  - Sewerage utility charges for service (Chapter 35.67 establishes lien against real property receiving this service)
  - Water utility charges for service (RC.W 35.21.300 authorizes disconnection of service).
  - Employees with related cash handling responsibilities should not have the authority to grant fee waivers. In circumstances in which it is not feasible to provide a proper segregation of duties, sufficient compensating policies and procedures must be developed designed to properly ensure City funds are safeguarded from loss.
  - Exception to the rules may be made only for unusual or extenuating circumstances upon written directive of the City Manager, or their designee, and only if such expenses relate to a benefit or service received by the City and compliance with these rules is or was not feasible.

## **6.0 PROCEDURE:**

### **6.1 Fees Ineligible for Fee Waiver:**

*The following types of fees are not eligible for a Fee Waiver.*

- Any waiver presenting representing a gifting of public funds except for the necessary support of the poor and infirm unless it can be documented in advance that:
  - The originating department acted without a donative intent.
  - The action will result in a significant benefit to the City.
- Principle amounts owed for the following:
  - City-imposed gambling and utility taxes.
  - City-imposed franchise fees.
  - Local improvement district assessments.
  - City water, sewer, drainage utility charges for services.
- Interest owed for delinquent City Business and Occupation Taxes.
- School District and Regional Fire Authority Impact Fees



## 6.2 Fees Eligible for Fee Waiver:

The following types of fees are eligible for Fee Waiver subject to the limitations established through this Policy:

- Account delinquency penalties and, with the exception of City business and occupation taxes, late interest. Examples include, but are not limited to, City utilities, general accounts receivable, and code enforcement.

Recommendations for waiver should be based in part on the following factors:


- Basis of request, if any, for waiver.
- Account payment history, i.e., history of delinquencies, if any.
- Qualifying low income individuals.
- Waivers which are part of a negotiated settlement for the benefit of economic development in the City. Examples include, but are not limited to, waiver of certain land use and/or building permit fees
- Waivers which promote the City's mission and values through the goods or service provided by the individual or organization receiving the waiver. Examples include, but are not limited to, fees or costs incurred by the City in support of special events held to promote diversity in the City.

## 6.3 Fee Waiver Authorization and Procedure Requirements:

Fee waivers authorization and procedure requirements must be established through departmental standard operating procedures, if not previously established through Code or through City policies and procedures. All fee waivers should be approved, in writing, by the originating department director or their designee, and all fee waivers representing significant dollar amounts and/or are of a sensitive nature, should be routed to the Finance Director and the City Manager or their respective designees for review and approval.

## 6.4 Collective Bargaining Agreements/Civil Service Rules:

Employees covered by collective bargaining agreements or Civil Service Rules will be subject to the specific terms of those agreements and rules. In the event a collective bargaining agreement or the Civil Service Rules do not contain language regarding purchasing cards as specified in this policy, then those employees will be governed by this policy.

	<h1>POLICY AND PROCEDURE</h1>	
<b>SUBJECT:</b> Fraud Prevention	<b>GROUP:</b> Finance Department	<b>POLICY NO:</b> 300-35
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERSEDES:</b> New	
<b>PREPARED BY:</b> Aaron BeMiller	<b>APPROVED BY:</b> Jeff Niten	

## 1.0 PURPOSE:

To provide guidance to City employees when misuse or misappropriation of City resources is known or suspected.

## 2.0 DEPARTMENTS AFFECTED:

All Departments.

## 3.0 REFERENCES:

*This policy is supplemental to the municipal fraud prevention, detection, investigation, and reporting requirements.*

*Loss of public funds – Illegal activity – Report to State Auditor’s Office – RCW 43.09.185*

*Local Government Accounting – Examination of Local Governments – Reports – Actions by Attorney General – RCW 43.09.260*

## 4.0 DEFINITIONS:

Employee – Any individual in a position of employment by the City as defined by the City’s Administrative Services Department as a regular employee, temporary employee, or any volunteer.

Management – Any employee as defined above which also performs supervisory responsibilities and includes, but is not limited to, department directors and mid-level managers.

City Resources – Any moneys (legal tender or coins, money orders or paper checks), equipment or other City assets under an employee’s custody, control or direction. Examples include, but are not limited to:

- Payments received from customers for goods or services provided by the City (e.g. user fees and charges)
- Payments received from taxpayers (e.g. business & occupation and gambling taxes)
- Payments made to vendors for goods or services provided to the City; and
- Usage of City vehicles or equipment
- City resources also include services provided by City employees as part of their duties.

Fraud – Intentional false representation or concealment of a material fact for the purpose of inducing another to act upon it to their injury and/or personal gain. Examples include, but are not limited to:

- Any dishonest or fraudulent act.
- Misappropriation of City resources.
- Impropriety in the handling or reporting of moneys or financial transactions. Examples include, but are not limited to, written falsification of a public record by employee and/or supervisory personnel for the benefit of the employee of:
  - Hours worked by employee resulting in compensation for which employee is not entitled, e.g. falsification of a payroll time record.
  - Travel-related expenses claimed for reimbursement by employee not actually incurred and/or not representing a valid and appropriate usage of City funds, e.g., falsification of a travel reimbursement request.
  - Usage of City funds for the purchase of goods and/or services for the employee rather than the City benefit or use, e.g., falsification of a City purchase order, vendor invoice, and/or merchandise receiving report.
  - Profiteering as the result of insider knowledge of City activities.
  - Disclosing confidential information to outside parties.
  - Accepting or seeking anything of material value from contractors, vendors, or persons providing goods or services to the City.

## **5.0 POLICY:**

The City of Shelton is committed to the safeguarding of City resources. The City will not tolerate any misuse or misappropriation of those resources. Such actions may result in the following:


- Disciplinary action up to and including termination of employment.
- Payment of restitution, including the cost of investigation.
- Filing of police report and referral for prosecution.

## **6.0 PROCEDURE:**

- 6.1 Management – Members of management are responsible for establishing and maintaining a system of internal controls to provide reasonable assurance of safeguarding of City resources through the prevention and detection of fraud. Management should be reasonably familiar with the types of fraud that might occur within their area of responsibility, and be alert for any indication of fraud. Management should consult with the Finance Department for guidance in this

area. Management has the same responsibility with respect to reporting fraud as do all other employees of the City. Management will support and cooperate in the detection, reporting and investigation of fraud, including the prosecution of offenders if appropriate.

- 6.2 Employees – Any employee who knows or has reason to believe that a fraud has occurred shall notify his/her immediate supervisor immediately. If the employee has reason to believe that the employee's immediate supervisor may be involved, the employee shall immediately notify his/her department director, Finance Director, City Manager or their respective designees. The person notified shall immediately notify the Finance Director and the Administrative Services Director or their respective designees.
- 6.3 Finance Director – It is the responsibility of the Finance Director or their designee to provide appropriate and timely notification to the Washington State Auditor's Office. It is expected that employees will fully cooperate with management, the State Auditor's Office, and all other involved departments and law enforcement agencies during the course of an investigation, and will make all reasonable efforts to be available to assist the above noted persons with the investigation.
- 6.4 Collective Bargaining Agreement/Civil Service Rules - Employees covered by collective bargaining agreements and/or Civil Service Rules will be subject to the specific terms of those agreements and/or rules with respect to the subject of this policy. In the event the collective bargaining agreement and/or Civil Services rules do not address this policy subject, then employees shall be governed by this policy.

	<h1>POLICY AND PROCEDURE</h1>	
<b>SUBJECT:</b> Per Diem	<b>GROUP:</b> Finance Department	<b>POLICY NO:</b> 300-38
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERSEDES:</b> NEW	
<b>PREPARED BY:</b> Aaron BeMiller	<b>APPROVED BY:</b> Jeff Niten	

## 1.0 PURPOSE:

To establish the requirements and procedures regarding the usage of per diem rates established by the United States General Services Administration (GSA).

## 2.0 DEPARTMENTS AFFECTED:

All Departments.

## 3.0 REFERENCES:

Advancement for Travel Expenses – Provision to Assure Repayment. RCW 42.24.140.

## 4.0 DEFINITIONS:

As used in this document unless the context requires otherwise:

- Per Diem – A specified daily or per meal allowance established by the United States General Services Administration (GSA) for the payment of necessary meals and incidental expenses for employee travel involving an overnight stay.
- Necessary Meals – Meals not included in the registration fee for the travel event.
- Incidental Expenses – Fees and tips for porters, baggage carriers, stewards, etc., subject to a maximum of \$5 per day.
- Overnight Stay – Instances in which, due primarily to geographic considerations, the employee attending the traveling event must spend the night in a hotel or place other than the employee's personal residence.
- Local Travel – Travel related cost or meals associated with events that do not require an overnight stay.



## **5.0 POLICY:**

This policy is to establish the requirements and procedures regarding the usage of per diem rates established by the United States General Services Administration (GSA). Key considerations:

- Per Diem would be used for all employee travel involving an overnight stay.
- The employee is not required to provide to the City vendor receipts or equivalent documentation for the cost of meals and incidental expenses.
- City purchasing cards cannot be used for meals or incidental expenses and employees cannot submit a claim for reimbursement for these expenses.
- Determination of eligible meals for the first and last day of travel would be based on the time of day that the employee leaves/returns to their personal residence.
- Payment would be made to the employee prior to the scheduled date of travel.
- Employees would be required to provide a duly completed, supported and authorized Travel Request Form. If per diem is not used, then the cost of meals paid by the City would be limited to the per diem rate.
- It shall be the responsibility of the Finance Director, or their designee to enforce rules and procedures consistent with this policy, to provide application and agreement forms, and to provide training governing the use of per diem. An exception may be made only for unusual or extenuating circumstances upon written directive of the City Manager, or their designee, and only if such expenses relate to a benefit or service received by the City and compliance with these rules is or was not feasible.


## **6.0 PROCEDURE:**

- 6.1 The employee or other authorized person obtains prior approval in writing as outlined above.
- 6.2 The employee or other authorized person completes and signs the Travel Advance Request form and attaches the following documentation:
  - Travel authorization (email or department form).
  - Conference/Travel Event Agenda with meals circled.
  - GSA per diem rate for travel destination ([www.gsa.gov/travel/plan-book/per-diem-rates](http://www.gsa.gov/travel/plan-book/per-diem-rates)).
  - Proof of mileage (if applicable).
- 6.3 The Travel Advance Request form and supporting documentation must be submitted to the Finance Department for processing at least 10 business days prior to travel to ensure that payment can be made prior to leaving.
- 6.4 The employee must return any funds due to the City within 15 calendar days comprised of meal per diem and/or mileage advanced for travel that did not occur on the planned days and times of the Travel Advance Request Form. Similarly, the employee may submit a claim for reimbursement for per diem and/or mileage due that was excluded from the Travel Advance Request Form.

- 6.5 Usage of Per Diem – Usage of per diem for necessary meals and incidental expenses is required for all travel while on City business involving an overnight stay unless approved in advance by both the department director (or City Manager if employee is a department director), and the Finance Director or their designees. Employees not receiving per diem may use their purchasing/credit card and submit a claim for reimbursement. Reimbursement for submitted expenses may not exceed the amount the employee would have received under per diem.
- 6.6 Travel within the Continental United States and Canada – To be eligible for payment of travel expenses within the continental United States and Canada, written authorization must be received prior to committing City funds (e.g., booking airfare) as follows:
- City Manager – Mayor or their designee.
  - Department Directors – City Manager or their designee.
  - City Clerk and Judge – City Manager or their designee.
  - Municipal Court Administrator – Judge.
  - All other City Employees – The employee's department director or their designee may authorize travel.

Written authorization includes, but is not limited to:

- Memorandum.
  - E-mail.
  - Department/Division Travel Requisition form.
  - When employees are traveling together, written authorization is required for each employee regardless of which employee remits payment for travel costs.
  - Each department should select its preferred method of documenting written travel authorization. Such documentation must be maintained in a manner providing for timely access for such purposes as public records requests and audit.
- 6.7 Other Travel – To be eligible for payment of travel expenses outside the continental United States and Canada, an employee must receive prior written authorization from the City Manager or their designee.

	POLICY AND PROCEDURE	
<b>SUBJECT:</b> Small and Attractive Assets	<b>GROUP:</b> Finance Department	<b>POLICY NO:</b> 300-47
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERSEDES:</b> New	
<b>PREPARED BY:</b> Aaron BeMiller	<b>APPROVED BY:</b> Jeff Niten	

## 1.0 PURPOSE:

This policy is to establish the guidelines, requirements, and procedures regarding the City's Small and Attractive Capital Assets (SACA) and is designed to provide reasonable assurance that SACA are safeguarded from waste, theft and abuse.

## 2.0 DEPARTMENTS AFFECTED:

All Departments.

## 3.0 REFERENCES:

None.

## 4.0 DEFINITIONS:

Coordinator – The Finance Director, or their designee, will appoint the Coordinator. The Coordinator is responsible for centralized monitoring of SACA operations, primarily comprised of providing an annual reminder notice to appropriate departmental personnel, ensuring receipt of written results of the annual (or more frequent) physical verifications of SACA by the departments for further review and analysis.

Small and Attractive Capital Asset – An item which is highly susceptible to theft that costs more than \$500 and less than \$5,000, including sales tax and shipping costs. Examples include, but are not limited to, laptop computers, tablets, cellular phones, printers, digital cameras, portable radios, hand-held engineering calculators, digital or video recorders or projectors, flat screen televisions, appliances, weapons, art work, mowers, and certain vehicle repair equipment such as flushing equipment. Departments have the option to account for assets below the \$500 threshold as SACA. For example, there may be certain assets that are inherently particularly vulnerable to loss that the Department believes appropriate to treat as SACA.

SACA Tracking System – The system or spreadsheet used to record the acquisition, assignment and disposal of the SACA. SACA purchased by the Information Technology Department, on behalf of another the Department, will be recorded to the Information Technology Department SACA Tracking System.

## **5.0 POLICY:**

It shall be the responsibility of each department to ensure that SACA, within its custody and control, are properly accounted for and used for authorized city purposes. It shall be the responsibility of the Finance Director, or their designee, to enforce this policy and related procedures. Exceptions to the rules set forth may be made for unusual or extenuating circumstances upon written directive of the Finance Director or their designee.

The Information Technology Department is responsible for, at least on an annual basis, providing the SACA Tracking System report to appropriate department or Division-level staff for SACAs acquired by the Information Technology Department on behalf of the Department for technology-based SACA as described lower in this policy.

## **6.0 PROCEDURE:**

6.1 Segregation of Duties – No one employee should have both access to the SACA item and control over the related accounting records. This would include, but is not limited to, ensuring:

- Employees responsible for ordering the SACA should also not have sole responsibility for receiving, tagging and recording the item to the SACA Tracking System.
- The annual physical verification of SACA should be performed by an employee independent of SACA acquisition, disposal and custody operations.
- In circumstances where it is not feasible to provide a proper segregation of duties, sufficient compensating policies and procedures must be developed that are designed to properly ensure City funds are safeguarded from loss. For example, a single employee may perform all of the operations described in Sections A and B; however, another employee completely independent these operations must review and approve the related transmittals, reports or equivalent documentation.

6.2 Financial and Account Requirements – Expenditures for SACA must be recorded to the appropriate account within Supplies Expense (Object Code 35XX).

6.3 Custodial Control Requirements – It is the responsibility of each department to ensure that SACA, within its custody and control, are properly accounted for and used for authorized purposes. Specific requirements include:

- At a minimum, the description, serial number (or other identifying reference, acquisition date, cost, and purchase order number (or last four digits of city purchasing card if used) must be properly and timely recorded to the SACA

Tracking System. If the asset is tagged or engraved with an identifier number, then the asset tag number or identifier number should be recorded.


- Access to SACA is reasonably controlled.
- Usage of SACA is limited to authorized and valid city purposes.
- Disposal or transfer of SACA is properly authorized and recorded. Disposal or transfer of computer equipment must be coordinated with the Administrative Services Director or their designee.
- Physical verification and inspection requirements as outlined above in this policy.
- Departments should exercise appropriate custodial control over assets valued at less than \$500 that inherently are particularly vulnerable to loss.

6.4 Physical Verification Requirements – Physical verification and inspection of SACA must be performed at least on an annual basis. Further, the results must be communicated in writing to the Coordinator by the last business day of January of the subsequent year. Specific considerations:

- The report to the Coordinator must reflect the results of comparison of SACA as listed on the SACA Tracking System report to the results of the physical verification, including additions and removals for the current calendar year.
- Known or suspected loss or misuse of SACA must be reported immediately to the Finance Director, or their designee, the Coordinator, and appropriate departmental personnel. When appropriate, the Shelton Police Department should be notified (e.g., theft, vandalism, breaking and entering, etc.).
- The Information Technology (IT) Department will provide the portion of its SACA Tracking System report, or equivalent information, to the appropriate department or division-level employee responsible for conducting annual verifications. This employee will be responsible for providing the results of the verification to the IT Department. The IT Department will provide the results of annual verifications to the Coordinator under the same timeline as conveyed above in this section.

6.5 Collective Bargaining Agreements/Civil Services Rules – Employees covered by collective bargaining agreements and/or Civil Service rules, will be subject to the specific terms of those agreements and/or rules with respect to the subject of this policy. In the event the collective bargaining agreement and/or Civil Services rules do not address this policy subject, then employees shall be governed by this policy.



	<h1>POLICY AND PROCEDURE</h1>	
<b>SUBJECT:</b> State Audit Protocol	<b>GROUP:</b> Finance	<b>POLICY NO:</b> <b>300-53</b>
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERSEDES:</b> New	
<b>PREPARED BY:</b> Aaron BeMiller	<b>APPROVED BY:</b> Jeff Niten	

## 1.0 PURPOSE:

Establish expectations designed to ensure audits performed by the State Auditor's Office (SAO) are:

- Performed in an effective and efficient manner.
- The City has an opportunity to effectively review preliminary audit results, assess validity of the results, and implement corrective policies and procedures.
- SAO has the opportunity to review the City's analysis of preliminary audit results, including recommended corrective policies and procedures.
- Both the City and SAO have the opportunity to review the level of reporting considerations with respect to adverse audit conditions, i.e. audit findings, a management letter or exit conference item.

## 2.0 DEPARTMENTS AFFECTED:

All Departments.

## 3.0 REFERENCES:

*State Auditor – RCW 43.09 (This policy is supplemental to the state audit requirements)*

## 4.0 POLICY:

Audits typically involve examination of central processes as well as departmental or division-level audits. Subject to reasonable considerations, the City is

committed to ensuring that requested documentation, information, and access to personnel, are provided to SAO in a timely manner. These considerations include the timing of critical operations, but not limited to, processing payroll and utility billings. It shall be the responsibility of the Finance Director, or their designee, to enforce rules and procedures consistent with this standard operating procedures (SOP). Exceptions to the rules set forth may be made for unusual or extenuating circumstances upon written directive of the Finance Director or their designee.

## **5.0 PROCEDURE:**

Pursuant to RCW 43.09, the State Auditor's Office (SAO) conducts audits of all state agencies, cities, counties, and other political subdivisions, municipal corporations, and quasi-municipal corporations. These audits revolve around financial reporting and matters of financial legal compliance. The SAO has the authority to conduct performance audits. The SAO performs an annual audit of the city on a calendar year basis and issues the following reports:

### **5.1 Financial Statements and Federal Single Audit:**

- Internal control over financial reporting and compliance, and other matters, based on an audit of financial statements performed in accordance with governmental auditing standards.
- Compliance of each major federal program, and report on internal control over compliance in accordance with the uniform guidance.
- Whether the financial statements were prepared in accordance with, cash based accounting principles.

### **5.2 Accountability Audit Report – The city uses public resources, compliance with state laws, regulations, and its own policies and procedures, and internal controls.**

### **5.3 Audit Concerns – Are communicated on various factors including, but not limited to, the impact of the audit concern.**

- Audit Finding – The highest level of reporting and comprised of the background, description of condition, cause of condition, effect of condition, recommendation, entity's response, auditor's remarks, and applicable laws and regulations. Auditees are required to develop a formal corrective action plan for review by SAO.
- Management Letter – Audit concerns reported in a formal letter to management, but not referenced in the audit report. Management letters typically include most of the elements of an audit finding in summary form.
- Exit Conference Items – Audit concerns reported orally to management at the formal entity-wide exit conference. This can represent minor items and in most instances, exit conference items are included within the text of the exit conference agenda or related attachment.

5.4 Finance Department Responsibilities – The Finance Director and/or their designee are responsible for overseeing and facilitating the annual audit conducted by SAO. The Finance Director will coordinate with SAO regarding the audit scope and timing of SAO audit procedures through activities that can include:


- Holding a preliminary audit entrance conference.
- Providing SAO with appropriate departmental liaison and other contact information.
- Providing SAO with documentation or other information easily available to appropriate Finance Department personnel.
- Providing timely written notification to appropriate departmental directors and management regarding planned audit work based on information provided by SAO.
- Finance, working in collaboration with the appropriate departments, will evaluate the validity of preliminary SAO audit concerns and, as appropriate, develop corrective actions.
- Drafting the city response to Audit Findings, Management Letters and Exit Conference items for presentation to SAO.

5.5 Responsibilities of Other Departments – *Appropriate departmental management staff are responsible for helping the Finance Department facilitate the annual audit conducted by SAO subject to the following expectations:*

- Appropriate departmental management personnel shall provide timely acknowledgement of receipt of notification SAO audit provided to the department pursuant to Section D of this SOP.
- Appropriate departmental management personnel shall immediately notify the Finance Director or their designee in writing regarding the following:
- Commencement of audit by SAO, including requests for documentation or information by SAO
- Known or potential audit concerns identified by SAO and reported to the department
- Any instances in which documentation requested by SAO cannot be located
- Any difficulties related to the audit process, e.g. expectations regarding timing of providing information or documentation
- Recognition that the department under audit has the right to expect that SAO properly schedule meetings and other interactions with departmental staff except where not appropriate, e.g. unannounced cash count audits
- Any other questions or concerns regarding the audit process
- Pursuant to this SOP, departmental personnel interacting with SAO should advise SAO regarding critical operations or other due dates that may adversely impact the timing of availability of documentation, information or availability of personnel to SAO.
- Most audits involve SAO documenting policies, procedures and SOPs governing financial operations selected for audit, and examination of those

- operations. Only those personnel knowledgeable in those operations provide this information to SAO in order to ensure information is accurate and complete, and related documentation can be provided in a timely manner.
- Departmental personnel should not make any comments or provide any correspondence responding to audit exceptions or other concerns raised by SAO without first consulting with the Finance Director or their designee. The Finance Director or their designee will work with the department in collaboration prior to submission of response to SAO.

5.6 Collective Bargaining Agreements/Civil Service Rules – Employees covered by collective bargaining agreements or civil service rules will be subject to the specific terms of those agreements and rules. In the event a collective bargaining agreement or the civil service rules do not contain language regarding purchasing cards as specified in this policy, those employees will be governed by this policy.

	<h1>POLICY AND PROCEDURE</h1>	
<b>SUBJECT:</b> Community Development Block Grant Grievance Procedure	<b>GROUP:</b> Community Development	<b>NUMBER:</b> 800-11
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERSEDES:</b> P900-00, Date Unknown	
<b>PREPARED BY:</b> Mark Ziegler	<b>APPROVED BY:</b> Jeff Niten	

## 1.0 PURPOSE:

To establish a procedure for processing grievances regarding the City's participation in the Community Development Block Grant (CDBG) Program.

## 2.0 DEPARTMENTS AFFECTED:

All Departments.

## 3.0 REFERENCES:

*Community Development Block Grant Management Handbook.*

## 4.0 PROCEDURE:

- 4.1 Complaints and grievances regarding the City's participation in the CDBG Program shall be submitted in writing to the City Manager for resolution. Complaints must include; the name, address, and phone number(s) of complainant.

Complaints must be submitted in person or by mail to: City of Shelton, 525 West Cota Street, Shelton, WA 98584. Regular business hours are 8:00 a.m. - 5:00 p.m. For additional information contact (360) 426-4491.

- 4.2 A decision by the City Manager will be rendered within fifteen (15) working days where practicable.
- 4.3 If a complaint cannot be resolved to complainant satisfaction by the City Manager, the complaint will be forwarded to Shelton City Council for discussion at an open, public meeting. A written decision by the Shelton City Council will be



provided with thirty (30) working days. The decision of the Shelton City Council will be final.

- 4.4 A record of action taken, using the Community Development Block Grant Complaint Log form, will be maintained as a part of the records or minutes at each level of the grievance process.

### **COMMUNITY DEVELOPMENT BLOCK GRANT COMPLAINT LOG**

1. DATE RECEIVED\_\_\_\_\_

2. PERSON RECEIVING COMPLAINT\_\_\_\_\_

3. NEW COMPLAINT OR ESTABLISHED CASE\_\_\_\_\_

4. LETTER, PHONE OR IN PERSON\_\_\_\_\_

5. CDBG CONTRACT NUMBER\_\_\_\_\_

6. NAME OF COMPLAINANT\_\_\_\_\_

ADDRESS\_\_\_\_\_

PHONE\_\_\_\_\_

7. ON BEHALF OF (NAME)\_\_\_\_\_

ADDRESS\_\_\_\_\_

PHONE\_\_\_\_\_

8. SUMMARY DESCRIPTION OF COMPLAINT:\_\_\_\_\_


\_\_\_\_\_

9. DESCRIPTION OF ACTION TAKEN AND DATES (INCLUDING REFERRAL INFORMATION, WHEN AND FOR WHAT ACTION AND DUE DATE FOR NEXT ACTION).

\_\_\_\_\_

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	<h1>POLICY AND PROCEDURE</h1>	
<b>SUBJECT:</b> Unmanned Aerial Systems (UAS) “Drone” Operations and Policy	<b>GROUP:</b> Public Works	<b>POLICY NO:</b> 1000-05R
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERSEDES:</b> 1000-05R, July 17, 2018	
<b>PREPARED BY:</b> Jay Harris	<b>APPROVED BY:</b> Jeff Niten	

## 1.0 PURPOSE:

To support and augment City of Shelton Public Works’ operations through improved efficiency with aerial equipment and create new opportunities to provide for the health, safety and welfare of the public and City of Shelton staff. This UAS Policy and associated procedures are intended to ensure the safe and responsible operation of the City’s unmanned aircraft, regardless of the nature of the mission. Unmanned Aerial Systems provide City of Shelton Public Works with the ability to safely and cost-effectively augment government services, improve efficiency of various tasks, and improve the safety of the public and city staff.

## 2.0 DEPARTMENTS AFFECTED:

All departments.

## 3.0 REFERENCES:

*RCW 40.14*  
*RCW 42.56*  
*Washington State Archives most current Common Records Retention Schedule (CORE)*  
*FAA Regulation 14 CFR Part 107 and Advisory Circular 107-2*

## 4.0 DEFINITIONS:

AGL – Above Ground Level

COA – Certificate of Waiver or Authorization issued by the FAA granting permission of the requesting agency operating as public aircraft for a specific UAS activity.

FAA – Federal Aviation Administration

FARs – Federal Aviation Regulations. For the purpose of conducting civil(s) UAS operations this is generally 14 CFR Part 107 and Advisory Circular 107-2.

GCS – Ground Control System – System of personnel and equipment which controls the UAV flight operation, and sends and received data or media during a UAS Mission.

NAS – National Air Space

Non-Participant – A person not involved in the event or operation, however in the area of or directly affected by the UAS flight or operation such as members of the media or by-standers.

(s)UAS – (Small) Unmanned Aircraft System [14 CFR Part 107] – UAV, GCS, Flight cameras, data and media collection systems. A (s)UAS is greater than 0.55 lbs. and less than 55 lbs. in flight.

UAS Flight Team – The group of individuals responsible for the implementation of any UAS Mission authorized by this policy. This includes at minimum one UAV PIC and one UAV Observer. This may also include UAV PMC.

UAS Mission – A flight operation performed by a UAV including planning, pre-flight operations, deployment, operation of the UAV and post-flight operations.

UAS Program Manager – Person designated by the City of Shelton Public Works Director to manage and implement the UAS Program.

UAS Participant – A person participating in an event under City operations with an ongoing UAS Mission.

UAV – Unmanned Aerial Vehicle (a.k.a. Drone).

UAV Observer – Visual Observer – Person acting as safety officer in direct contact with UAV PIC and UAV PMC during UAS mission responsible for relaying observations and hazards to the UAV PMC and to maintain situational awareness of GCS environment and UAB flight environment.

UAV PIC – Pilot in Command – UAV Pilot remotely in control of a City UAV and is the final authority of UAV operations during a UAS Mission; provided, that all missions will be conducted in accordance with approved Project guidelines and parameters. A UAV PIC must be in control or able to immediately take manual control of a UAV in flight at all times and must be certified under City of Shelton UAS Program to be a PIC or UAS Missions and hold a valid FAA Remote Pilot Certification with a (s)UAS rating.

UAV PMC – Person Manipulating Controls – Person certified through City of Shelton UAS Program to operate a UAV in flight during a UAS Mission. The PMC must have a valid FAA Remote Pilot Certification with a (s)UAS rating or be under the direct supervision of a PIC who has the ability to immediately take manual control of the UAV in flight at all times.

Unprocessed UAV Data – Digital data collected by a UAV during UAS missions that is still in its original and unaltered state.

## **5.0 POLICY:**

UNMANNED AERIAL SYSTEMS  
POLICY 1000-05

It is the policy of the City of Shelton to maintain personnel trained in the use of unmanned aircraft systems and to use this resource to protect life and property and to support City of Shelton Public Works department in providing transportation services to City of Shelton citizens. City of Shelton Public Works staff or are authorized to utilize the UAS and associated technologies when it provides cost efficiency, improved data quality, or improved personnel safety over an existing method or process. Examples of permitted uses include, but are not limited to, aerial photography, photogrammetry, bridge inspections, geotechnical field investigations, Light Detection and Ranging (LiDAR) applications, public outreach, mapping construction sites and conditions, and disaster response/training exercises. Nothing in this policy shall be construed as to restrict the safe, rapid deployment of a City-owned or contracted UAS in response to an emergency or exigent situation to protect life and limb, critical transportation and infrastructure. Safety and privacy concerns are priorities in the implementation of the program.

- 5.1 Responsibility – The City Manager and the Public Works Director are responsible for administration of this policy.
- 5.2 Protection of Civil Rights and Privacy – UAS Program Manager and all UAS Flight Team members will ensure the protection of civil rights and reasonable expectations of privacy are key components in any decision to deploy the UAV. UAS Program Manager and all UAS Flight Team members will minimize the extent that UAV operations intrude on the citizens of Shelton.
- 5.3 UAS Program Manager and all UAS Flight Team members will limit operations to the specific approved purpose of the project and shall employ reasonable precautions to avoid capturing images of the public except those that are pertinent to the project.
- 5.4 All videos and still images will be maintained in strict compliance with City of Shelton policies and procedures. Any videos or images depicting private information will be withheld from public disclosure to the extent permitted by the Public Records Act, chapter 42.56 RCW.
- 5.5 The City of Shelton Public Works UAS program will operate strictly within the federal, state and local laws and regulations.
- 5.6 City of Shelton Public Works will not share Unprocessed UAV Data with other City of Shelton departments, other local governments, State agencies or Federal agencies unless such sharing is specified within the original purpose of the UAS mission or if such sharing has been directed by the Shelton City Council, or if such sharing is required by controlling state or federal law.
- 5.7 Administration
  - The policies and procedures contained in this document are issued by the authority of the Shelton City Council.

- This manual is considered a supplement to existing City of Shelton policy, FAA regulations and policy, Washington State regulations and UAV aircraft manufacturer's flight operations manual.
- This manual will be reviewed and updated when other rules, regulations or policy require changes or when changes are deemed necessary.

## 5.8 Organization

- UAV operated by the City of Shelton Public Works Department are considered "Public Aircraft Operations" by the FAA. FAA Regulation 14 CFR Part 107 and Advisory Circular 107-2 and/or the COA issued by the FAA are the authority that grants City of Shelton Public Works operating authority in the NAS.
- Supervision and command of the City of Shelton Public Works UAS program is conducted by the City of Shelton Public Works UAS Program Manager. All UAS Flight Team members will be trained in accordance with City of Shelton Training Standards and be issued a copy of this UAS Operations and Policy manual.

## 6.0 **PROCEDURE:**

### 6.1 Operations

- UAS missions will operate within the limitations of the FAA Regulation 14 CFR Part 107 and Advisory Circular 107-2 and/or the COA issued by the FAA.
- The City of Shelton Public Works UAS program will operate strictly within the current laws and regulations.
- All UAS missions will consist of a UAS Flight Team. Under no circumstances will a pilot attempt to complete a deployment alone without an observer.
- Air Support mission briefings and Risk Assessments will be completed and briefed prior to each flight.
- Pre-Flight and post-flight inspections of the UAV will be completed by the UAS Flight Team using the manufacturer's operator's manual. Pre-flight inspection and any discrepancies will be logged in the UAV logbook.
- Pre-flight, in-flight and post-flight checklists will be developed and used by the UAV PIC.

### 6.2 Safety

- Employees involved in City-owned UAS operations shall comply with pertinent City of Shelton Safety/Personnel policies and FAA safety regulations.
- Employees requiring assistance complying with FAA safety regulations shall consult with the UAS Program Manager.
- It is the duty of every member of the UAS Flight Team to contribute to the goal of continued safe operations. This contribution may come in many forms and includes always operating in the safest manner possible and never taking unnecessary risks.



### 6.3 Training

- All UAS Program Managers will oversee the UAV Training Program.
- All UAS Flight Team members will have a training folder located at the UAS Program Manager's office that includes certificates of training and training documentation.
- UAV Observers must complete sufficient training to communicate to the pilot any instructions required to remain clear of conflicting traffic. This will include knowledge of the rules and responsibilities described in 14 CFR 91.111, Operating Near Other Aircraft; 14 CFR 91.113, Right-of-Way Rules; Except Water Operations; and 14 CFR 91.155, Basic VFR Weather Minimums; knowledge of air traffic and radio communications, including the use of approved ATC/pilot phraseology; and knowledge of appropriate sections of the Aeronautical Information Manual.
- Recurrent Training. UAV PIC and PMC who do not have documented flight time within 180 days will demonstrate proficiency in their duties to the UAS Program Manager or a UAV PIC/PMC who is current and proficient. PIC's must demonstrate three takeoffs and three landings of the specific UAV in the previous 180 days to remain current. Currency flights may be supervised by the UAS Program Manager or another current UAV PIC/PMC. All mission deployments, including practice or training flights, will be documented and counted towards an operator's UAV flight experience. An FAA aeronautical knowledge test must be passed and documented every 24 months.
- Crew Resource Management Training (CRM). All UAS Flight Team members will complete the City of Shelton Public Works Crew Resource Management initial training and annual CRM training. CRM for UAS Flight Team members will emphasize situational awareness and effective communication during each UAV flight operation.

### 6.4 Equipment

- City of Shelton Public Works UAS equipment will be managed under the Engineering Department.
- The UAS Program Manager will be responsible for ensuring all users of the equipment have appropriate levels of training, verifying certifications and ensuring the UAS is properly maintained.
- All supporting software, equipment registrations, radio licensing or other federal programs and requirements will be obtained or monitored by the UAS Program Manager.
- UAS Procurements shall be in accordance with the current City of Shelton Purchasing and Procurement Policy.

### 6.5 Maintenance

- Pre-flight and post-flight inspections of the UAV will be completed by the UAS Flight Team using the manufacturer's operator's manual.


- Pre-flight, in-flight, and post-flight checklists will be developed and used by the UAV PIC.
- Discrepancies noted during pre-flight or post-flight inspections will be noted in the UAV logbook.
- Scheduled and unscheduled maintenance on the UAV will be performed in accordance with the manufacturer's guidelines.

#### 6.6 Retention and Public Disclosure of Aerial Imaging

- Aerial imaging shall be retained in accordance with the provisions of RCW 40.14.
- Public requests for UAS aerial imaging shall be processed in accordance with City of Shelton public disclosure policy and the provisions of the Public Records act, chapter 42.56 RCW and/or applicable federal law. All retained images will be withheld to the extent permitted by the Public Records Act, chapter 42.56 RCW, and other controlling law.
- Aerial imaging retention schedules shall be based upon the Washington Secretary of State – Washington State Archives most current Common Records Retention Schedule (CORE).

#### 6.7 Accident Reporting and Review – All UAS related accidents that result in deaths, injuries, illnesses; incidents or near misses will be reported as defined in the City of Shelton safety Program and Policies. In addition to the above City of Shelton requirements, the FAA requires the following:

- 9 107.9 Accident Reporting. No later than 10 days after an operation that meets the criteria of either paragraph (a) or (b) of this section, a remote pilot in command must report to the Federal Aviation administration in a manner acceptable to the Administrator, any operation of the small unmanned aircraft involving at least:
  - Serious injury to any person or any loss of consciousness; or
  - Damage to any property, other than the small unmanned aircraft, unless one of the following conditions is satisfied:
    - The cost of repair (including materials and labor) does not exceed \$500; or
    - The fair market value of the property does not exceed \$500 in the event of total loss.
    - The FAA has an online reporting tool for this purpose  
[https://www.faa/Nov/uas/report accident/](https://www.faa/Nov/uas/report%20accident/)

	POLICY AND PROCEDURE	
<b>SUBJECT:</b> Community Athletic Programs Non-Discrimination Policy	<b>GROUP:</b> Parks and Recreation	<b>POLICY NO:</b> 1200-02
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERSEDES:</b> N/A	
<b>PREPARED BY:</b> Mark Ziegler	<b>APPROVED BY:</b> Jeff Niten	

## 1.0 PURPOSE:

To establish policy and procedure to provide equal access to public community athletic programs and sports facilities by prohibiting discrimination on the basis of sex.

## 2.0 DEPARTMENTS AFFECTED:

All Departments.

## 3.0 REFERENCES:

*None.*

## 4.0 POLICY:

The City of Shelton does not discriminate against any person on the basis of sex in the operation, conduct, or administration of community athletic programs or sports facilities

## 5.0 DEFINITIONS:

*Community Athletic Programs* – Any athletic program that is organized for the purposes of training for, and engaging in, athletic activity and competition that is operated, conducted, administered or supported by the City of Shelton.

*Sports Facilities* – Any property owned, operated or administered by the City of Shelton for the purposes of training for, and engaging in, athletic activity and competition.

## **6.0 PROCEDURE:**

- 6.1 Community Athletic Programs administered by the Parks and Recreation Department will be operated in a manner that promotes equal opportunities.
- 6.2 The Parks and Recreation Department will allocate and schedule sports facilities in a manner that provides equal access to all community athletic programs.
- 6.3 The City of Shelton will not issue a lease or permit for use of any sports facility to a third- party that discriminates against any person outlined in its purpose statement above.
- 6.4 This policy will be posted on the City of Shelton's website, along with the name, office address, and office telephone number an employee responsible for carrying out compliance with this policy.
- 6.5 This policy will be referenced and the name, office address, and office telephone number of any employee responsible for carrying out compliance with this policy will be included in all City of Shelton publications that contain information about athletic programs or facilities operated or administered by the City of Shelton.

## **7.0 REPORTING:**

- 7.1 Any citizen who feels he/she has been the victim of discriminatory treatment in violation of this policy should report this concern to the Parks and Recreation Supervisor for appropriate investigation.

## **8.0 REVISIONS:**

- 8.1 Based upon the City's annual evaluation, revisions may be recommended to help achieve the desire policy outcomes. Revisions may be approved by the City Manager.



## POLICY AND PROCEDURE

<b>SUBJECT:</b> Donation of Gifts of Artwork	<b>GROUP:</b> Parks and Recreation	<b>POLICY NO:</b> 1200-03
<b>EFFECTIVE DATE:</b> January 1, 2021	<b>SUPERSEDES:</b> P100-03, Dated April 5, 2004	
<b>PREPARED BY:</b> Aaron BeMiller	<b>APPROVED BY:</b> Jeff Niten	

### 1.0 PURPOSE:

To adopt procedures and criteria for the Shelton Arts Commission in reviewing proposed gifts of artwork that is consistent with Ordinance 1512-1298 (acceptance of donations, devises or bequests to the City), and consistent with other applicable legislative and administrative policies and procedures of the City.

### 2.0 DEPARTMENTS AFFECTED:

All Departments.

### 3.0 REFERENCES:

*Ordinance 1300 – Shelton Arts Commission*

*Ordinance 1512-1298 – Acceptance of Donations, Devises, or Bequests to the City.*

### 4.0 DEFINITIONS:

*Authority – Accepting gifts or donations of money or property is vested by Ordinance 1512-1298 in the City Manager. However all ultimate authority to expend city funds comes from the City Council, usually through the budget process. In addition, the City Council has established an advisory arts commission to add quality and artistic discernment to decisions regarding acquisition, display and maintenance of publicly owned artworks in the city. Therefore, this policy contains the integrated arts policies of the City Council, the City Manager and the Shelton Arts Commission.*

### 5.0 POLICY:

The Shelton Arts Commission shall review all proposed gifts of artwork that are donated, devised, or bequeathed, with or without restriction, to the City of Shelton including; actual artwork, property for placement of artwork, or funds for



the acquisition of artwork. Gifts of artwork to the City may include donations by individuals, neighborhoods and/or community groups. The Shelton Arts Commission will evaluate the suitability of proposed gifts and make recommendations to the City Manager (Ord 1512-1298).

## **6.0 PROCEDURE:**

- 6.1 The Shelton Arts Commission shall appoint a Gifts Panel to review proposed artwork gifts to the City. Each panel shall consist of five to seven members representing the Arts Commission, the community, and/or representatives from City Departments. The City Manager, or designee, shall appoint a staff member to serve as facilitator to this panel. At the discretion of the Arts Commission, donated work with a value less than \$1,000 may be submitted directly to the City Manager rather than a Gifts Panel for review.
- 6.2 The Gifts Panel reviews each proposed gift for aesthetic quality, potential sites, and restrictions from the donor, and determines the suitability of the gift based on the following criteria. The panel will require evidence that these issues have been satisfactorily resolved before making a recommendation regarding a proposed gift.
- Aesthetic Quality – Does the proposed gift have strong aesthetic merit?
  - Proposed Location – Is the artwork adequately scaled for the proposed site?
  - The relationship between the artwork and its proposed site?
  - Why was a particular site requested and does the site present any special obstacles?
  - Donor Restrictions/Requests – If restrictions/requests clearly identified. If accepted, can the expectations be met?
  - Technical Feasibility – Can the artwork be built and installed as proposed and are adequate professional resources identified to do the work?
  - Technical Specifications – The Gift Panel must review the actual work, if available, or scale drawings, and/or model(s) consisting of a site plan and elevation describing the following:
    - Surrounding site conditions if applicable.
    - Dimensions.
    - Materials.
    - Colors.
    - Electrical, plumbing, or other utility requirements.
    - Construction and installation method.
    - The Gift Panel may require additional support material such as text verbally describing artwork and specifications, models or presentation drawings by a licensed engineer.
    - Budget – What will be the cost to manage this project? What is the cost of site preparation? What is the cost of delivery and installation? Has the donor provided funds for signage, plaque, or other appropriate attributions? Are all projected costs accurate and realistic? Has the donor clearly defined who is responsible for all costs associated with

the donation? Have written estimates been obtained from technical support and fabrication/installation contractors?

- Durability - Will the material last? How long is the material expected to last in a public, non-archival exhibition setting? What age have other works in the same material(s) attained? Is the work suitable for its location? For example, what effect will sunlight, salt water, wind, and other elements potentially have on the work? Are seismic considerations relevant?
- Warranty - Does the donor agree to be responsible for a warranty period of one year from the date of final installation of the artwork for the integrity of the materials, fabrication, and installation of the artwork?
- Vandalism and Safety - Is the work prone to vandalism or a safety hazard at the proposed site? Will the work have a graffiti-resistant coating or can one be easily applied? Will the work present legal liability concerns? Has the work been reviewed by the Administrative Services Director, or designee, for liability exposure?
- Maintenance and Preservation - Are there unusual or on-going costs? Should a maintenance endowment be established by the donor? The Gift Panel may recommend that the donor allocate and guarantee funds to ensure adequate quality care for the artwork.
- Donors must provide a technical and maintenance record, including a plan for routine care with estimated costs.
- Is the work removable if necessary?
- Relationship to the Collection as a Whole.
- The Arts Commission has a commitment to creating a diverse collection of work. How is the proposed gift compatible or incompatible with the City of Shelton's public art collection? Is this artist's work already well represented in the City's collection?
- Community Process – If the artwork proposal has been generated by a community group, how has the surrounding community been involved and consulted?
- Time Line - Has a realistic time line been presented indicating a completion date? Is the time line realistic?

6.3 Community groups or individual donors proposing gifts are informed of the importance of the above criteria in the panel's consideration. Groups and individuals are encouraged to read this policy carefully, and consult the Worksheet for Prospective Donors Offering Gifts of Art to the City of Shelton.

6.4 The panel makes a recommendation to the full Arts Commission on a course of action regarding each proposed gift. The Commission's recommendation will be communicated to the Director of Community Development. The recommendation will then be presented to the City Manager for formal acceptance or rejection of the gift. If the gift will have substantial community impact, the City Manager, at his discretion, may forward the proposed gift to the City Council for review and approval.

- 6.5 For each proposed donation, the City Manager or designee, shall communicate an acknowledgment of acceptance or rejection on behalf of the City.

## **7.0 GIFT ACCEPTANCE**

- 7.1 At the time a proposal is made to the City, the donor must present a timeline indicating a completion date. If a proposed gift is not completed within the timeline originally established, or if significant changes (both conceptual and/or financial) to the proposed work occur, the proposal must be resubmitted for full review. Time lines may be amended only if mutually agreed upon between the donor and the City.
- 7.2 A gift acceptance form (a legal instrument of conveyance) will be completed for each donation.
- 7.3 Monetary donations shall be deposited in the General Fund and designated for public art. The Shelton Arts Commission will recommend expenditures from the fund to the City Council.
- 7.4 The Arts Commission will plan specific projects and recommend the allocation of funds, the procedures, and guidelines for all donated funds.
- 7.5 The Community Development Director and the Arts Commission will submit individual project recommendations for implementation as a part of the normal city budget process.
- 7.6 The Community Development Director will maintain acquisition/inventory records on all gifts acquired under this policy.
- 7.7 The Community Development Director will be responsible for contracting and will act as liaison on behalf of the City in the completion of each project.
- 7.8 The City Manager shall assign responsibility for the maintenance of gifts to the City.
- 7.9 The Community Development Director will notify the City in writing what the donation is and its value in order to obtain a property identification number and to include the artwork on the City property schedule for Insurance.

## **8.0 DEACCESSION REVIEW:**

- 8.1 Gifts of artwork may be deaccessioned if necessary, after review and recommendation by the Arts Commission and in accordance with City policies for the disposition of property.

## **9.0 SEVERABILITY CLAUSE:**

- 9.1 If any section, subsection, paragraph, sentence, clause or phrase of this policy is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of the policy.