



# A G E N D A

## PLANNING COMMISSION

Connie Coleman-Lacadie • Don Daniels  
Nancy Hudson-Echols • Ryan Pearson  
James Guerrero • Paul Wagemann  
Christopher Webber

### **Regular Meeting**

**Wednesday, February 20, 2019**

**City Hall Council Chambers at 6:30 PM**

6000 Main Street SW, Lakewood, Washington

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of Minutes from February 6, 2019**
- 4. Agenda Updates**
- 5. Public Comments**  
(Each person will be allowed 3 minutes to speak, to a total of 15 minutes per topic. Groups with a designated speaker may have a total of 10 minutes to speak.)
- 6. Unfinished Business**
  - None
- 7. Public Hearings**
  - None
- 8. New Business**
  - Shoreline Master Program Periodic Review
  - Title 18A Update
- 9. Report from Council Liaison**
  - Mr. Mike Brandstetter
- 10. Reports from Commission Members & Staff**
  - Written Communications
  - Future Agenda Topics
  - Area-Wide Planning / Land Use Updates
  - Other

**Enclosures**

1. Draft Meeting Minutes from February 6, 2019
2. Staff Report on Shoreline Master Program Periodic Review with Attachments
3. Staff Report on Title 18A Update with Attachments

**Members Only**

Please email [kdevereaux@cityoflakewood.us](mailto:kdevereaux@cityoflakewood.us) or call Karen Devereaux at 253.983.7767 no later than Tuesday at noon, February 19, 2019 if you are unable to attend. Thank you.



**PLANNING COMMISSION  
REGULAR MEETING MINUTES  
February 6, 2019  
City Hall Council Chambers  
6000 Main Street SW  
Lakewood, WA 98499**

**Call to Order**

Ms. Connie Coleman-Lacadie, Vice-Chair, called the meeting to order at 6:30 p.m.

**Roll Call**

Planning Commission Members Present: Connie Coleman-Lacadie, Vice-Chair; Christopher Webber, Paul Wagemann, Nancy Hudson-Echols, Ryan Pearson and James Guerrero

Planning Commission Members Excused: Don Daniels, Chair

Planning Commission Members Absent: None

Staff Present: Tiffany Speir, Special Projects Planning Manager; and Karen Devereaux, Administrative Assistant

Council Liaison: Councilmember Mr. Michael Brandstetter

**Approval of Minutes**

**The minutes of the meeting held on January 16, 2019 were approved as written by voice vote M/S/C Hudson-Echols/Guerrero. The motion passed unanimously, 6-0.**

**Agenda Update**

None

**Public Comments**

Mr. Glen Spieth, Lakewood resident, commented he has operated a business in the City since 1968 and when Lakewood was incorporated in 1996 his parcel was zoned Non-Conforming 2 (NC2). He voiced concern that most of the City seems to be non-conforming and he urged the Commission to research this issue.

**Unfinished Business**

None

**Public Hearings**

None

**New Business**

Title 18A Update

Through a PowerPoint presentation, Ms. Tiffany Speir helped to make clear to commissioners their role regarding planning issues in reviewing and making recommendations to the City Council on such changes, amendments or additions to the Comprehensive Plan as may be deemed desirable, necessary or appropriate. Ms. Speir thoroughly explained the many state regulations, regional layers of policies that must be followed, the Comprehensive Plan and Zoning Maps, zoning districts and overlays on top of the districts as they relate to the Downtown

Subarea Plan and a breakdown of the Lakewood Municipal Code Sections as a large overview of this project.

Moving forward into the details of the Title 18A the commissioners were provided a full chart comparing current and new 18A chapters and sections. It was explained the efforts are being made to help all users experience a more logical flow to the chapters with exact references and clear definitions to make the sections easier to read and understand.

Ms. Speir answered questions and listened to suggestions made by commissioners.

Current 2019 Proposed Title 18A Update Public Outreach and Planning Commission Schedule:

- Stakeholder Outreach
  - Meetings held January 10, 11
  - Additional outreach and meetings between February 6 and March 6
- Planning Commission
  - Discussions on February 20, March 6, April 3 and May 1
  - Public Hearing on April 17
  - Action on May 15

### **Report from Council Liaison**

Councilmember Mr. Michael Brandstetter delivered the following City Council updates:

City Council approved interim regulations for Wireless Facilities at the Monday, 4 February 2019 meeting. Public comment was received at the hearing from two separate wireless communication companies and one citizen. Mr. Brandstetter clarified that the interim regulations do not affect the Title 18A project commissioners are currently reviewing.

The Public Works Engineering staff is implementing strategy to obtain grants to complete research and execute treatment to American Lake for controlling dangerously invasive milfoil. PWE staff is working with land owners to develop a Lake Management Plan and create a Lake Management District.

Mayor Don Anderson, Deputy Mayor Jason Whalen and City Manager John Caulfield are in Washington D.C. this week working to encourage federal action and obtain funding for a number of projects. There are funds available for transportation projects for cities which border military bases. The City is also looking for alternatives to the revenue source for purchasing land in the North Clear Zone (NCZ).

### **Reports from Commission Members and Staff**

#### City Council Actions

None

#### Written Communications

None

#### Future Agenda Topics

February 20, 2019 the second Shoreline Master Plan Open House will be held at 5:30 PM in Council Chambers just prior to the Planning Commission meeting.

Area-Wide Planning / Land Use Updates  
None

**Next Regular Meeting: February 20, 2018 at 6:30 p.m. in Council Chambers**  
**Meeting Adjourned at 7:40 p.m.**

---

Don Daniels, Chair  
Planning Commission 02/20/2019

---

Karen Devereaux, Recording Secretary  
Planning Commission 02/20/2019

DRAFT



TO: Planning Commission

FROM: Tiffany Speir, Planning Manager, Special Projects

DATE: February 20, 2019

SUBJECT: Shoreline Master Program Periodic Update

ATTACHMENTS: Draft Shoreline Master Program Periodic Review Checklist;  
Draft amendments to 2014 Shoreline Master Program

Lakewood conducting a required “periodic review” of its 2014 Shoreline Master Program (SMP) in accordance with the Washington State Shoreline Management Act (SMA) and the Department of Ecology (ECY) SMP Guidelines.

The SMP is an element of the Lakewood Comprehensive Plan and the City’s development regulations. The SMP applies to shorelines of the state, generally including lakes greater than 20 acres and streams with a flow greater than 20 cubic feet per second, along with shorelands within 200 feet of the ordinary high water mark of these water bodies and associated wetlands (RCW 90.59.030). Within the City of Lakewood, the areas regulated under the SMP include:

- The shorelines of American Lake, Gravelly Lake, Lake Steilacoom, Waughop Lake, Lake Louise, Chambers Creek, and Clover Creek; and
- Associated wetlands within the Lakewood City limits.

The City mailed notifications about the 2019 SMP periodic review to over 1,200 property owners in November 2018, then held an open house about the periodic review on January 16 and February 20, immediately before the Planning Commission meetings on each date. The website [www.lakewoodsm.org](http://www.lakewoodsm.org) has been live since November 2018 and includes background information about the periodic review, notices re meetings and public hearings, and draft SMP language as it becomes available.

Attached hereto is the draft table (Attachment A) summarizing the amendments to the 2014 Lakewood SMP. Also attached is the 2014 SMP itself (Attachment B) with draft 2019 redline/strikeout amendments.

Lakewood has also engaged AHBL to update the City’s Shoreline Restoration Plan to be consistent with the latest RCW and WAC provisions as well as to reflect restoration projects completed, underway, or planned since 2014. This draft will be provided to the Planning Commission before the March 6 public hearing.

## City of Lakewood, WA Periodic Review Checklist

### Contact:

**Tiffany Speir, Special Projects Planning Manager**  
253.983.7702 | [tspeir@cityoflakewood.us](mailto:tspeir@cityoflakewood.us)  
6000 Main St SW  
Lakewood, WA 98499

### Introduction

This document is intended for use by counties, cities and towns conducting the “periodic review” of their Shoreline Master Programs (SMPs). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the Shoreline Management Act (SMA) at [RCW 90.58.080\(4\)](#). Ecology’s rule outlining procedures for conducting these reviews is at [WAC 173-26-090](#).

This checklist summarizes amendments to state law, rules and applicable updated guidance adopted between 2007 and 2017 that may trigger the need for local SMP amendments during periodic reviews.

### How to use this checklist

See Section 2 of Ecology’s *Periodic Review Checklist Guidance* document for a description of each item, relevant links, review considerations, and example language.

**At the beginning:** Use the review column to document review considerations and determine if local amendments are needed to maintain compliance. See WAC 173-26-090(3)(b)(i).

**At the end:** Use the checklist as a final summary identifying your final action, indicating where the SMP addresses applicable amended laws, or indicate where no action is needed. See WAC 173-26-090(3)(d)(ii)(D), and WAC 173-26-110(9)(b).

*Local governments should coordinate with their assigned [Ecology regional planner](#) for more information on how to use this checklist and conduct the periodic review.*

**TASK 4.1 - A Periodic Review Checklist documenting consideration of statutory amendments, and internal consistency review**

Row	Summary of change	Review	Action
2017			
a.	OFM adjusted the <b>cost threshold for substantial development</b> to \$7,047.	2014 SMP, Chapter 7: Definition of Substantial Development includes reference to cost threshold of \$6,416 and contains language noting that this figure must be adjusted every five years.	<b>2014 SMP Ch. 7 definition of “Substantial Development” amended to incorporate \$7,047</b>
b.	Ecology amended rules to clarify that the <b>definition of “development”</b> does not include dismantling or removing structures.	2014 SMP, Chapter 7, page 120: Definition of “development” references RCW 90.58.030(3a).	<b>2014 SMP Ch. 7 definition of “development” does not include dismantling or removing structures.</b>
c.	Ecology adopted rules that clarify <b>exceptions to local review under the SMA.</b>	2014 SMP, Chapter 6.C.1.a. incorporates WAC 173-27-040 by reference.	<b>2014 SMP Ch. 6.C.1.a amended to refer to WAC 173-27-044 and to incorporate language from page 4 of P.R. Checklist Guidance</b>
d.	Ecology amended rules that clarify <b>permit filing procedures</b> consistent with a 2011 statute.	2014 SMP, Chapter 6.C.2.h. contains procedures for filing and includes language for “Date of Filing”.	No amendment needed.
e.	Ecology amended <b>forestry use regulations</b> to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require SDPs.	2014 SMP, Chapter 4 Table 1. prohibits forest practices in all shoreline zones.	No amendment needed
f.	Ecology clarified the SMA does not apply to lands under <b>exclusive federal jurisdiction</b>	2014 SMP, Chapter 2.C. includes reference to RCW 90.58.	No amendment needed
g.	Ecology clarified “default” provisions for <b>nonconforming uses and development.</b>	2014 SMP, Chapter 7 includes nonconformance regulations.	<b>2014 SMP amended to include default definitions and provisions for nonconforming uses and development</b>
h.	Ecology adopted rule amendments to clarify the scope and process for conducting <b>periodic reviews.</b>	2014 SMP, Chapter 6.H. includes review provisions.	<b>2014 SMP Ch. 6 (H) amended to include ECY scope and process for periodic reviews</b>
i.	Ecology adopted a new rule creating an <b>optional SMP amendment process</b> that allows for a shared local/state public comment period.	2014 SMP, Chapter 6.H. contains amendment provisions that reference RCW 90.58 and WAC 173.26.	<b>After review, no amendments made to 2014 SMP</b>
j.	<b>Submittal</b> to Ecology of proposed SMP amendments.	2014 SMP, Chapter 6.I contains amendment provisions that reference RCW 90.58 and WAC 173.26.	No amendment needed
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the <b>Americans with Disabilities Act.</b>	2014 SMP, Chapter 6.C.1.a incorporates by reference WAC 173-27-040.	No amendment needed
b.	Ecology updated <b>wetlands critical areas guidance</b> including implementation guidance for the 2014 wetlands rating system.	2014 SMP Chapter 3.B.3 incorporates the 2004 Critical Areas regulations.	<b>2014 SMP amended to cite 2015 LMC Title 14 vs 14A and to updated ECY wetland critical area guidance</b>



Row	Summary of change	Review	Action
<b>2015</b>			
a.	The Legislature adopted a <b>90-day target</b> for local review of Washington State Department of Transportation (WSDOT) projects.	2014 SMP, Chapter 6.C.2.e addresses this by reference to the SMA RCWs and WAC.	<b>2014 SMP Ch. 6 .C.2.e amended to include ECY P.R. Checklist Guidance page 12 language</b>
<b>2014</b>			
a.	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for <b>replacement docks on lakes and rivers</b> to \$20,000 (from \$10,000).	2014 SMP, Chapter 5.C.5.b includes this provision.	<b>2014 SMP amended to include replacement and freshwater dock thresholds to \$22,500 and \$11,200 at Chapter 5.c.5.b</b>
b.	The Legislature created a new definition and policy for <b>floating on-water residences</b> legally established before 7/1/2014.	None within the City. 2014 SMP, Table I prohibits them.	No amendment needed
<b>2012</b>			
a.	The Legislature amended the SMA to clarify <b>SMP appeal procedures</b> .	2014 SMP, Chapter 6.C.2.f. cites to RCW 90.58.180 for appeals of permit; appeals of SMP ECY's SMP approval decisions are governed by RCW 90.58.190.	No amendment needed
<b>2011</b>			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved <b>federal wetland delineation manual</b> .	2014 SMP, Chapter 3.B.3.a)3)h. contains reference to federal manual. 2015 updates to City critical area ordinances incorporate necessary language at Title 14.162.020.	<b>2014 SMP amended to cite approved federal wetland delineation manual and LMC Title 14 vs 14A</b>
b.	Ecology adopted rules for new commercial <b>geoduck aquaculture</b> .	City has no saltwater shoreline.	No amendment needed
c.	The Legislature created a new definition and policy for <b>floating homes</b> permitted or legally established prior to January 1, 2011.	None within the City. 2014 SMP, Table I prohibits them.	No amendment needed
d.	The Legislature authorized a new <b>option to classify existing structures as conforming</b> .	2014 SMP, Chapter 6.F.2. addresses nonconforming structures, uses and lots. Subsection 6.F.2.a does not incorporate option to classify existing structures as conforming.	No amendment needed
<b>2010</b>			
a.	The Legislature adopted <b>Growth Management Act – Shoreline Management Act clarifications</b> .	2014 SMP, Chapter 6.I incorporates by reference.	No amendment needed
<b>2009</b>			
a.	The Legislature created new “relief” procedures for instances in which a <b>shoreline restoration project within a UGA</b> creates a shift in Ordinary High Water Mark.	2014 SMP, Chapter 3.B.6.c.15 & .16 contains provisions.	<b>2014 SMP Ch. 3.B.6.c.15 amended per ECY recommendation to refer to WAC 173-27-215</b>
b.	Ecology adopted a rule for certifying <b>wetland mitigation banks</b> .	2015 updates to City critical area ordinances, Title 14A.162.100 contain provisions.	<b>2014 SMP amended to cite to LMC Title 14 vs 14A section re wetland mitigation banks</b>

Row	Summary of change	Review	Action
c.	The Legislature added <b>moratoria authority</b> and procedures to the SMA.	N/A	N/A
2007			
a.	The Legislature clarified <b>options for defining "floodway"</b> as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	2014 SMP, Chapter 7 contains definition.	<b>2014 SMP Ch. 7 definition of "floodway" amended to reflect current ECY guidance.</b>
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a <b>list and map of streams and lakes</b> that are in shoreline jurisdiction.	No SMP amendment required, but City could consider re-formatting to a list to better meet WAC intent & ECY preference.	<b>2014 SMP amended to include Figure 1 at end of Chapter 2. List of regulated water bodies and shorelines included at Ch. 1 (D) and Ch. 2 (C)</b>
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include <b>fish habitat enhancement projects</b> that conform to the provisions of RCW 77.55.181.	2014 SMP, Chapter 6.C.1.a incorporates exemptions by reference.	No amendment needed

Other items Lakewood will be reviewing per 3) Changes to Local Circumstance, New Information, Improved Data:

Row	Summary of change	Review	Action
2019			
a.	Recommended amendments by City staff to make SMP more user-friendly	Staff is reviewing the 2014 SMP to incorporate any additional changes they may propose that will provide better clarity and organization to aid applicants and practitioners in improved implementation.	Materials from staff will be provided by February 15, 2019 (prior to February 20 open house)
b.	Updating and adopting the City's Shoreline Restoration Plan	Lakewood has secured the services of AHBL to coordinate with the Chambers Clover Creek Watershed Council (CCWC) and interested stakeholder groups and citizens to consider changes needed to bring the Plan up to date with current project status, new opportunities, and partners information.	Materials from AHBL will be provided by February 28, 2019 (prior to March 6 Planning Commission public hearing)

City of Lakewood  
Grant No. G1000045

Shoreline Master Program  
*Environment Designations, Policies, and Regulations*



Prepared by:

AHBL  
1200 6th Avenue  
Suite 1620  
Seattle, WA 98101

With:  
Otak, Inc.  
10230 NE Points  
Drive, Suite 400  
Kirkland, WA 98033

DATE: ~~December 17, 2014 (Responsive to DOE Comments)~~  
SMP Periodic Review 5.1 Revised draft: February 12, 2019



This report was funded in part through a grant from the Washington Department of Ecology.



# Acknowledgments:

City of Lakewood Citizens

City of Lakewood Planning Advisory Board

City of Lakewood City Council

City of Lakewood

Grant No. G1000045

Shoreline Master Program

*Environment Designations, Policies, and Regulations*

*This page intentionally left blank*

# Table of Contents

<b>Chapter 1</b>	<b>Introduction</b>	<b>1</b>
A.	History and Requirements of the Shoreline Management Act	1
B.	Shoreline Master Program Development and Public Participation	2
C.	Purposes of the Shoreline Master Program	2
D.	Shoreline Master Program Basics	2
E.	Organization of this Shoreline Master Program	3
F.	Relationship between this Shoreline Master Program and Other Plans	4
G.	Title	4
<b>Chapter 2</b>	<b>Shoreline Environments</b>	<b>5</b>
A.	Introduction to Shoreline Environment Designations	5
B.	Need for Consistency	5
C.	City of Lakewood Shoreline Jurisdiction	6
D.	City of Lakewood Shoreline Environment Designations	7
E.	Shoreline Areas Not Mapped or Designated	7
F.	Management Policies and Regulations	8
1.	Shoreline Residential Environment	8
2.	Urban - Stream Protection Environment	9
3.	Urban Park Environment	11
4.	Conservancy Environment	13
5.	Natural Environment	15
6.	Aquatic Environment	17
<b>Chapter 3</b>	<b>General Shoreline Provisions</b>	<b>19</b>
A.	Introduction	19
B.	Policies and Regulations	20
1.	Universally Applicable Policies and Regulations	20
2.	Archaeological and Historic Resources	21
3.	Critical Areas	22
4.	Environmental Impacts and Mitigation Sequencing	27
5.	Public Access	28
6.	Restoration	32
7.	Shorelines of Statewide Significance	35
8.	Shoreline Vegetation Conservation (Clearing and Grading)	36
9.	Water Quality, Stormwater, and Non-Point Pollution	41
<b>Chapter 4</b>	<b>Shoreline Use Provisions</b>	<b>45</b>
A.	Applicability	45
B.	General Policies	45

C.	Shoreline Use and Development Standards	46
1.	Shoreline Use Table	47
2.	Shoreline Development Standards Table	49
3.	Flexible Shoreline Setback and Buffer Regulations	51
D.	Specific Shoreline Use Policies and Regulations	56
1.	Aquaculture	56
2.	Boating Facilities	56
3.	Commercial Development	60
4.	Parking	62
5.	Recreational Development	63
6.	Residential Development	65
7.	Signs	68
8.	Trails	69
9.	Transportation Facilities	71
10.	Utilities (Primary)	72
11.	Utilities (Secondary)	74
<b>Chapter 5</b>	<b>Shoreline Modification Provisions</b>	<b>77</b>
A.	Introduction and Applicability	77
B.	Table of Permitted Shoreline Modifications	77
C.	Policies and Regulations	79
1.	General Policies and Regulations	79
2.	Shoreline Stabilization (Including Bulkheads)	80
3.	Dredging and Disposal	88
4.	Fill	90
5.	Overwater Structures and Launching Facilities	92
<b>Chapter 6</b>	<b>Administration</b>	<b>103</b>
A.	Purpose and Applicability	103
B.	Shoreline Administrator	103
1.	Authority	103
2.	Duties	103
C.	Substantial Development	105
1.	Exemptions	105
2.	Permit Process	105
D.	Variances and Conditional Use Permits	107
1.	Shoreline Variance	107
2.	Shoreline Conditional Use Permits	109
<b>ii</b>		
E.	Appeals to the Shoreline Hearings Board	110



F.	Nonconforming Use and Development Standards	110
1.	Applicability	110
2.	Standards for Nonconforming Structures, Uses, and Lots	110
G.	Enforcement and Penalties	112
1.	General Provisions	112
2.	Administrative Orders	113
3.	Suspension and Revocation	114
H.	Shoreline Master Program Review by City of Lakewood	114
I.	Amendments to the Shoreline Master Program	115
J.	Severability	115
K.	Conflict of Provisions	115
<b>Chapter 7</b>	<b>Definitions and Abbreviations</b>	<b>117</b>

## List of Tables

Table I.	Shoreline Uses	47
Table II.	Shoreline Development Standards	49
Table III.	Shoreline Setback and Buffer Reduction Mechanisms	54
Table IV.	Permitted Shoreline Modifications	78
Table V.	Dimensional Standards for Overwater Structures	98

## List of Figures

Figure 1.	Shoreline Environment Designations Map	<a href="#">TBA</a>
-----------	--	---------------------

## Appendices

A.	Critical Area and Natural Resource Lands and Flood Hazard Overlay Ordinances (Lakewood Municipal Code Titles <a href="#">14A.142</a> , <a href="#">14A.146</a> , <a href="#">14A.150</a> , <a href="#">14A.154</a> , <a href="#">14A.158</a> , <a href="#">14A.162</a> , <a href="#">14A.165</a> , and <a href="#">18A.40</a> ), <a href="#">Ord. 630 § 8, December 7, 2015</a> , Ordinance 362 3(part), <a href="#">November 15, 2004</a> and Ordinance No. 264 1 (part), <a href="#">August 20, 2001</a> .
----	--

*This page intentionally left blank*

# Chapter 1 Introduction

## A. History and Requirements of the Shoreline Management Act

Washington's Shoreline Management Act (SMA or the Act) was adopted in 1971 by referendum to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines. RCW 90.58.020 outlines the Act's three broad policies:

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

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

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

1. Developing an inventory of the natural characteristics and land use patterns along shorelines covered by the act.
2. Preparing a Shoreline Master Program (SMP) to determine the future of the shorelines.
3. Preparing a cumulative impact analysis to demonstrate that reasonably foreseeable development under the SMP will not result in a net loss of ecological function.
4. Developing a permit system to further the goals and policies of both the Act and the SMP.
5. Developing a Restoration Plan that includes goals, policies, and actions to restore impaired shoreline ecological functions.

## **B. Shoreline Master Program Development and Public Participation**

The City obtained a grant from the Washington Department of Ecology (Ecology) in 2009 to conduct a comprehensive SMP update. The first step of the update process was to inventory the City's shorelines as defined by the Act, Chapter 90.58 RCW. American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek comprise the City's SMA shorelines. The inventory describes existing biological and physical conditions. These conditions were then analyzed and characterized to create a baseline from which future development actions in the shoreline will be measured.

The City identified environmental designations for the different shorelines, and policies and regulations for each were developed.

Ecology's SMP Guidelines (See Chapter 173-26-186(8) WAC) require the City to demonstrate that its updated SMP yields "no net loss" in shoreline ecological functions relative to the baseline due to its implementation. Ideally, the SMP, in combination with other City and regional efforts, will ultimately produce a net improvement in shoreline ecological functions.

## **C. Purposes of the Shoreline Master Program**

The purposes of this SMP are:

1. To carry out the responsibilities imposed on the City by the SMA.
2. To comply with the SMP Guidelines (See WAC 173-26-186), focusing on regulations and mitigation standards to ensure that development under the SMP will not result in a net loss of ecological functions.
3. To further both the policies of Chapter 90.58 RCW and the policies of this SMP.
4. To promote public health, safety, and general welfare by providing a guide and regulation for the future development of the shoreline resources of the City.

## **D. Shoreline Master Program Basics**

The City's SMP is both a planning and regulatory document that outlines policies and development regulations for the City's shorelines.

In order to preserve and enhance the City's shorelines, it is important to consult the City Shoreline Administrator and evaluate all shoreline development proposals in terms of the City's SMP. Some developments may be exempt from obtaining a permit; however, all proposals must comply with the policies and regulations established by the SMA as expressed through this local SMP.

While the SMA defines the content and goals that local jurisdictions should include in the SMP, each community must develop specific regulations to address their individual needs. Under the SMP Guidelines, all shorelines governed by the SMA receive a shoreline environment designation. The purpose of the shoreline environment designation system is to ensure that all land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and provides consideration for the special requirements of that environment.

The City has designated its shorelines on American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek under six shoreline environment designations: Aquatic, Natural, Conservancy, Urban Park, Urban - Stream Protection and Shoreline Residential. These shoreline environment designations are described in Chapter 2, Shoreline Environments.

Persons proposing any shoreline development, land use, or other projects in the shoreline area must consult with the City's Shoreline Administrator (the City's Community Development Director or designee) to determine how the proposal is addressed in the SMP. [Except when specifically exempted by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, and this Master Program.](#)

The Shoreline Administrator will determine if a proposal is exempt from having to obtain a substantial development permit (i.e. qualifies for a Shoreline Exemption), as well as provide information on the permit application process.

Requests for variances, conditional use permits (CUPs), and/or substantial development permits require review and approval by the Shoreline Administrator and/or recommendation by the Shoreline Administrator to the Hearing Examiner, in accordance with Chapter 6 of this SMP. Requests for CUPs and variances also require final approval by Ecology. A description of exempt projects, shoreline application procedures, and criteria are discussed in Chapter 6, Administration.

A description of the area within the jurisdiction of this SMP is presented in Chapter 2: Shoreline Environments. Figure 1 depicts the general extent of shoreline jurisdiction in the City.

## **E. Organization of this Shoreline Master Program**

This SMP is divided into seven chapters:

**Chapter 1: Introduction** provides general background information on the SMA; the development of the SMP in the City; and a general discussion of when and how a SMP is used.

**Chapter 2: Shoreline Environments** defines and maps the approximate extent of City's shoreline jurisdiction and defines and maps the environment designations of the City's shorelines. Policies and regulations specific to the six (6) shoreline environment designations are detailed in this chapter.

**Chapter 3: General Policies and Regulations** establishes the general policies and regulations that apply to uses, developments, and activities in *all* shoreline areas of the City, regardless of environment designation.

**Chapter 4: Specific Shoreline Use Policies and Regulations** sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas. Specific setback regulations, reduction incentives, and dimensional and density standards are detailed in this chapter. The policies and regulations cover the following uses and activities: Aquaculture; Boating Facilities; Commercial Development; Parking (as a primary use); Recreational Facilities; Residential Development; Signs; Trails; Transportation Facilities; Utilities (Primary and Accessory); and other uses and activities.

**Chapter 5: Shoreline Modification Activity Regulations** provides policies and regulations for those activities that modify the physical configuration or qualities of the shoreline area.

**Chapter 6: Administration** provides the system by which the City’s SMP will be administered, and provides specific information on the application process and criteria used in evaluating requests for shoreline substantial development permits, CUPs, and variances.

**Chapter 7: Definitions** defines terms found in this document.

## **F. Relationship between this Shoreline Master Program and Other Plans**

The permitting process for a shoreline development or use does not exempt an applicant from complying with any other applicable local, state, regional, or federal laws or regulations. In the City, this includes, but is not limited to, the Land Use and Development Code (Lakewood Municipal Code (LMC) Title 18A), the Performance Code for Building and Facilities (LMC Title 15A), the City of Lakewood Comprehensive Plan, and the Surface Water Design Manual.

## **G. Title**

This document shall be known and may be cited as the City of Lakewood Shoreline Master Program. This document may refer to itself as ‘The Master Program’ or ‘SMP.’

# Chapter 2 Shoreline Environments

## A. Introduction to Shoreline Environment Designations

The SMA and the SMP Guidelines provide for shoreline environment designations to serve as a tool for applying and tailoring the general policies of the SMA to local shorelines. Shoreline environment designations are intended to preserve and enhance shoreline ecological functions and to encourage development that will enhance the present or desired future character of the shoreline. To accomplish this, shoreline segments are given an environment designation based on existing development patterns, biological capabilities, and limitations, the aspirations of the local citizenry and the criteria in the SMP Guidelines.

Environment designations are categories that reflect the type of development that has or that should take place in a given area. The SMP Guidelines recommend classifying shoreline environments using the categories described in WAC 173-26-211(5). Additionally, local governments may establish an alternative shoreline environment designation, provided there is consistency with the purposes and policies of the SMA and the SMP Guidelines, including WAC 173-26-211(5).

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

## B. Need for Consistency

Local governments are tasked with evaluating consistency between the SMP, the Comprehensive Plan, and land use regulations under WAC 173-26-211(3). The SMA requires that policies for lands adjacent to the shorelines be consistent with the Act, implementing rules and the local SMP. Conversely, local comprehensive plans provide the underlying framework within which SMP provisions should fit. The Growth Management Act (GMA) requires that SMP policies be incorporated as an element of the comprehensive plan, and that all elements be internally consistent. In addition, under the GMA, all development regulations must be consistent with the comprehensive plan.

The SMP Guidelines identify three criteria to assist local governments in evaluating the consistency between SMP environment designation provisions and the corresponding comprehensive plan elements and development regulations, including:

1. **Provisions not precluding one another.** Comprehensive plan provisions and shoreline environment designation provisions should not preclude one another. To meet this criterion, the provisions of both the comprehensive plan and the SMP must be able to be met. Further, when considered together and applied to any one piece of property, the SMP use policies and regulations

and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded.

2. **Use compatibility.** Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent existing or potential future water oriented uses, especially water dependent uses, from being restricted on shoreline areas because of impacts to nearby non-water-oriented uses. To be consistent, SMPs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development.
3. **Sufficient infrastructure.** Infrastructure and services provided in the comprehensive plan should be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Infrastructure plans must also be mutually consistent with shoreline environment designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

## C. City of Lakewood Shoreline Jurisdiction

As defined by the SMA, lands subject to shoreline jurisdiction include “waters of the state” plus their associated “shorelands.” At a minimum, waters of the state are streams whose mean annual flow is 20 cubic feet per second (c.f.s.) or greater, and lakes whose area is greater than 20 acres. In RCW 90.58.030, Shorelands are defined as:

“Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark (OHWM); floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter.”

Within the City, shoreline jurisdiction includes American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, and Waughop Lake and their shorelands, as well as Chambers Creek and Clover Creek and their shorelands. Figure 1 [at page \\_\\_\\_\\_\\_](#) depicts the general location of shoreline jurisdiction in the City and is illustrative in nature. The actual definition of shoreline jurisdiction as detailed in the SMA will determine the actual extent of shoreline jurisdiction on a project-by-project or parcel-by-parcel level. In the event of a mapping error, the City will rely upon common boundary descriptions and the criteria in RCW 90.58.030(2) and Chapter 173-22 WAC to determine shorelands and the extent of each environment designation.

When interpreting the exact location of an environment designation boundary line, the location shown on the Official Shorelines Map shall prevail, consistent with the following rules:

1. Boundaries indicated as approximately following parcel, trac or section lines shall be so construed.
2. In cases of boundary line adjustments or subdivisions, the designation of the parent parcel shall not change as a result, except if pursuant to an amendment of this Shoreline Master Program (SMP).



3. Boundaries indicated as approximately following roads shall be construed to follow the nearest right-of-way edge.
4. Boundaries indicated as approximately parallel to or extensions of features indicated in XXX section of this SMP shall be so construed.

6

## D. City of Lakewood Shoreline Environment Designations

This SMP establishes six shoreline environment designations for the City of Lakewood's shoreline jurisdiction. These environments are derived from the City's Shoreline Analysis Report, the City of Lakewood Comprehensive Plan, and the environments recommended by the SMA and the SMP Guidelines. The City's Shoreline Analysis Report provides an inventory of natural and built conditions within the City's shoreline jurisdiction. The conditions identified in the inventory have been compared with the recommended shoreline environments and the most appropriate environments selected. The six (6) City shoreline environment designations in order of most intensive to least intensive are:

1. Shoreline Residential,
2. Urban - Stream Protection,
3. Urban Park,
4. Conservancy,
5. Natural, and
6. Aquatic.

These shoreline environment designations for the City are illustrated in Figure 1 (Shoreline Management Environment Designations), located at [the end of the SMP page](#), and described in the text below. Each shoreline description includes a definition and statement of purpose, followed by designation criteria, management policies, and references to development standards that are specific to that shoreline environment. Shoreline development standards in each shoreline environment are summarized in Table II in Chapter 4. Development standards pertaining to all shoreline areas are covered in Chapter 3 and development standards for particular uses are detailed in Chapter 4.

Please see Figure 1 for the Shoreline Environment Designations Map.

## E. Shoreline Areas Not Mapped or Designated

Any undesignated or unmapped shorelines in the City and its Urban Growth Area are assigned automatically a Conservancy shoreline environment designation until the shoreline is re-designated through an amendment to the SMP. This includes any areas that are annexed into the City and fall within the City's shoreline jurisdiction, such as Camp Murray.

## **F. Management Policies and Regulations**

### **1. Shoreline Residential Environment**

#### **a) Purpose**

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

#### **b) Designation Criteria**

The Shoreline Residential environment designation is assigned to shoreline areas that are associated with lakes and are predominantly single-family or multi-family residential development or are platted, zoned, and planned for residential development.

#### **c) Designated Areas**

##### 1) Description

Shoreline Residential environment areas include those shorelands adjacent to American Lake, Gravelly Lake, Lake Louise, and Lake Steilacoom that are primarily developed and/or platted and zoned for residential uses, and where that use is anticipated to continue in the future.

##### 2) Rationale

The segments of shoreline designated as Shoreline Residential are predominately-residential land uses and all areas are platted and planned for low to moderate residential density. Urban services and infrastructure are provided to these properties.

#### **d) Management Policies**

- 1) Residential activities and developments that protect and enhance the shoreline are preferred.
- 2) Limited non-residential uses, such as water-oriented recreation facilities, parks, day care facilities, and home occupation businesses should be allowed, provided they are consistent with the residential character and the requirements of the underlying zone.
- 3) Development should be located, sited, designed, and maintained to protect, enhance, and be compatible with the shoreline environment designation.

- 4) Development regulations should require the preservation of ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
- 5) Multi-family development, subdivisions of more than ~~four~~nine lots and recreational developments should provide public access to the shoreline and joint use facilities for community recreational needs.
- 6) Low impact development (LID) best management practices (BMPs), such as minimizing effective impervious surfaces, infiltrating run-off, using green roofs and pervious pavers and other BMPs, should be implemented where feasible.
- 7) Private property owners should be encouraged to preserve and enhance native shoreline vegetation and use environmentally friendly landscaping practices, through incentives, information, and other assistance.

#### **e) Regulations**

- 1) Shoreline Use: Permitted, conditional, and prohibited uses for the Shoreline Residential environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table I of that Chapter.
- 2) Development Standards: Shoreline related development standards for the Shoreline Residential environment are summarized in Table II of Chapter 4.

## **2. Urban - Stream Protection Environment**

#### **a) Purpose**

The purpose of the Urban - Stream Protection environment designation is to ensure appropriate protections for the ecological functions of Clover Creek, while recognizing the limited demand for water dependent uses in this environment. This designation reflects the current developed urban nature of most upland areas and provides for a range of uses consistent with underlying zoning, while closely regulating the intensity of development allowed within stream and wetland buffers.

#### **b) Designation Criteria**

The Urban - Stream Protection environment designation is assigned to shorelands along Clover Creek with the following characteristics:

- 1) Riparian functions impacted by historic development as documented in the Shoreline Analysis and Characterization Report;

- 2) Key management objectives include stream function enhancement, flood hazard mitigation, and fostering economically productive uses; and
- 3) A mix of urban land uses exist in upland areas, including single-family, higher density multi-family and commercial uses, depending on the underlying zoning.

**c) Designated Areas**

- 1) Description

The Urban - Stream Protection environment designation is assigned to areas that include Clover Creek between Lake Steilacoom and the City of Lakewood city limits, except for the shorelands in Springbrook Park adjacent to Clover Creek.

- 2) Rationale

The Urban - Stream Protection environment designation will protect and enhance stream functions by encouraging vegetative buffer enhancement and limiting development near the stream, while accommodating and allowing flexibility for existing and future uses, including single-family residential and higher intensity commercial and multi-family uses, where allowed by underlying zoning.

**d) Management Policies**

- 1) Stream functions should be protected, preserved and, where possible, enhanced per the Critical Areas provisions, while also encouraging redevelopment and allowing sufficient flexibility for accommodating existing and future upland shoreline uses.
- 2) Development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed.
- 3) Modification of the stream channel should not be allowed, except where there will be a clear improvement or restoration of stream functions.
- 4) Reflecting current land uses, a wide range of shoreline uses should be allowed outside of required setbacks and, critical areas, and buffers, including single- and multi-family residential, parks and open space, and commercial uses on existing commercial sites or where a public benefit consistent with the SMA's objectives can be provided, such as public access, mixed-use or ecological enhancement.
- 5) All uses should be consistent with the requirements of the underlying zoning. No new industrial uses should be allowed.
- 6) LID should be implemented where feasible for any development occurring within the Urban – Stream Protection environment.

### **e) Regulations**

- 1) Shoreline Use: Permitted, conditional, and prohibited uses for the Urban - Stream Protection environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and are summarized in Table I of that Chapter.
- 2) Development Standards: Shoreline related development standards for the Urban - Stream Protection environment are summarized in Table II of Chapter 4.

## **3. Urban Park Environment**

### **a) Purpose**

The purpose of the Urban Park environment designation is to protect and restore ecological functions of open space in urban and developed settings, while allowing a variety of compatible uses, with an emphasis on water oriented recreation.

### **b) Designation Criteria**

The Urban Park environment is assigned to areas with one or more of the following characteristics:

- 1) They are generally suitable for water-oriented recreational uses,
- 2) They have potential for ecological restoration,
- 3) They retain important ecological functions, even though partially developed, or
- 4) They have the potential for development that is compatible with ecological restoration.

### **c) Designated Areas**

- 1) Description

Urban Park environment areas include:

- a. Shorelands in all public parks and public street ends located on lakes within the shoreline jurisdiction;
- b. Eagle Point (a private subdivision open space tract on American Lake, Parcel # 4001800540);  
and
- c. Lakewold Gardens (a private facility with public access on Gravelly Lake).

- d. Shorelands adjacent to Waughop Lake; and
- e. Shorelands in Springbrook Park adjacent to Clover Creek.

2) Rationale

This designation will preserve and enhance the ecological functions of the publicly owned properties and private recreational areas of the shoreline while retaining future options for active and passive water oriented shoreline recreation and public access. The publicly owned parks offer potential for ecological restoration.

**d) Management Policies**

- 1) Uses that preserve the natural character of the area or promote preservation of open space, either directly or over the long term, should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the current uses and conditions at the specific location.
- 2) Water dependent recreational uses, such as public access piers, recreational floats and boat launches, should be given priority over non-water dependent recreational uses, provided they can be located, designed, constructed, operated, and mitigated in a manner that ensures no net loss of ecological function.
- 3) Public access and public recreation objectives should be implemented whenever feasible and whenever significant ecological impacts can be mitigated.
- 4) Water oriented recreation uses, such as viewing trails, benches and shelters, should be emphasized and non-water oriented uses should be minimized and allowed only as an accessory use; for example picnic areas, forest trails and small playground areas would be acceptable, but tennis courts and developed sports fields would not.
- 5) Standards should be established for shoreline stabilization, vegetation conservation, water quality and shoreline modifications to ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
- 6) LID should be implemented where feasible for any development occurring within the Urban Park environment.

#### **e) Regulations**

- 1) Shoreline Use: Permitted, conditional, and prohibited uses for the Urban Park environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table I of that Chapter.
- 2) Development Standards: Shoreline related development standards for the Urban Park environment are summarized in Table II of Chapter 4.

### **4. Conservancy Environment**

#### **a) Purpose**

The purpose of the Conservancy environment designation is to protect and restore ecological functions of open space, floodplain, and other sensitive lands, while allowing a variety of compatible uses, with an emphasis on passive recreation, such as trails and wildlife viewing.

#### **b) Designation Criteria**

The Conservancy environment is assigned to shorelines with one or more of the following characteristics:

- 1) They are generally unsuitable for intensive water-dependent recreational uses;
- 2) They are open space, flood plain or other sensitive areas that should not be more intensively developed;
- 3) They have potential for ecological restoration;
- 4) They retain important ecological functions, even though partially developed; or
- 5) They have limited potential for development that is compatible with ecological restoration.

#### **c) Designated Areas**

- 1) Description

Conservancy environment areas include:

- a. Shorelands of Chambers Creek between Lake Steilacoom and the confluence of Leach Creek;  
and
- b. Those portions of the Oakbrook 4<sup>th</sup> Addition subdivision that fall within the shoreline jurisdiction.



2) Rationale

This designation will preserve and enhance the ecological functions of undeveloped and minimally developed portions of the shoreline and sensitive lands while retaining future options for passive shoreline recreation and public access. These areas also offer potential for ecological restoration.

**d) Management Policies**

- 1) Uses that preserve the natural character of the area or promote preservation of open space or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed.
- 2) Water oriented recreation uses, such as viewing trails, benches and shelters, should be emphasized and non-water oriented uses should be minimized and allowed only as an accessory use; for example picnic areas, forest trails and small playground areas would be acceptable, but tennis courts and developed sports fields would not.
- 3) Intensive water dependent facilities, such as motorized boat ramps, are generally not appropriate for these areas; limited facilities for swimming, viewing, and launch of non-motorized craft should be allowed in suitable areas.
- 4) Public access and public recreation objectives should be implemented whenever feasible and whenever significant ecological impacts can be mitigated.
- 5) Standards should be established for shoreline stabilization, vegetation conservation, water quality and shoreline modifications to ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.
- 6) LID should be implemented where feasible for any development occurring within the Conservancy environment.

**e) Regulations**

- 1) Shoreline Use: Permitted, conditional, and prohibited uses for the Conservancy environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table I of that Chapter.
- 2) Development Standards: Shoreline related development standards for the Conservancy environment are summarized in Table II of Chapter 4.

## 5. Natural Environment

### a) Purpose

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

### b) Designation Criteria

A Natural environment designation is assigned to shoreline areas if any of the following characteristics apply:

- 1) The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be changed by human activity;
- 2) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
- 3) The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

### c) Designated Areas

- 1) Description

The Natural environment areas include the portion of Chambers Creek that includes the south bank between the confluence of Leach Creek and where Chambers Creek crosses the western City boundary. Parcels within the Oakbrook 4<sup>th</sup> Addition subdivision are specifically excluded from the Natural environment designation.

- 2) Rationale

This portion of Chambers Creek has generally high ecological function, a largely natural shoreline and is unable to support significant new development without significant adverse impacts to ecological function.

### d) Management Policies

- 1) Any use that would substantially degrade the ecological functions or natural character of the shoreline area should not be allowed.

- 2) The following new uses should be prohibited in the Natural environment:
  - a. Commercial uses.
  - b. Industrial uses.
  - c. Non-water-oriented recreation, except the maintenance, repair, and limited expansion of existing facilities and uses.
  - d. Roads, utility corridors, and parking areas that can be located outside of Natural environment designated shorelines.
  - e. Multi-Family Residential.
  - f. Commercial forestry.
  - g. Agricultural uses.
- 3) Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed if no significant ecological impact in the area will result.
- 4) Certain over-water structures, such as docks and piers, should not be allowed because of their impacts to the Natural environment and because there is not sufficient demand for these structures to support the water dependent uses on Chambers Creek.
- 5) New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed.
- 6) The subdivision of property should not be allowed.
- 7) LID should be implemented where feasible for any development occurring within the Natural environment.

**e) Regulations**

- 1) Shoreline Use: Permitted, conditional, and prohibited uses for the Natural environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table I of that Chapter.
- 2) Development Standards: Shoreline related development standards for the Natural environment are summarized in Table II of Chapter 4.

## **6. Aquatic Environment**

### **a) Purpose**

The purpose of the Aquatic environment designation is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the OHWM.

### **b) Designation Criteria**

The Aquatic environment designation is assigned to areas waterward of the OHWM.

### **c) Designated Areas**

#### 1) Description

Aquatic environment areas include all areas waterward of the OHWM as generally shown in Figure 1, including areas waterward of the OHWM within Chambers Creek and Clover Creek, as determined on a site-by-site basis.

#### 2) Rationale

Areas waterward of the OHWM within the City fall within the Aquatic environment designation criteria as set forth in WAC 173-26-211(5)(c). This designation intends to preserve, protect, and manage the ecological functions of all water bodies that are considered waters of the state, as defined by the SMA.

### **d) Management Policies**

- 1) New over-water structures should be allowed only for water-dependent uses, public access, or ecological restoration.
- 2) The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
- 3) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities should be encouraged.
- 4) All developments and uses on waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
- 5) Uses that adversely impact the ecological functions of identified critical freshwater habitats, should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only

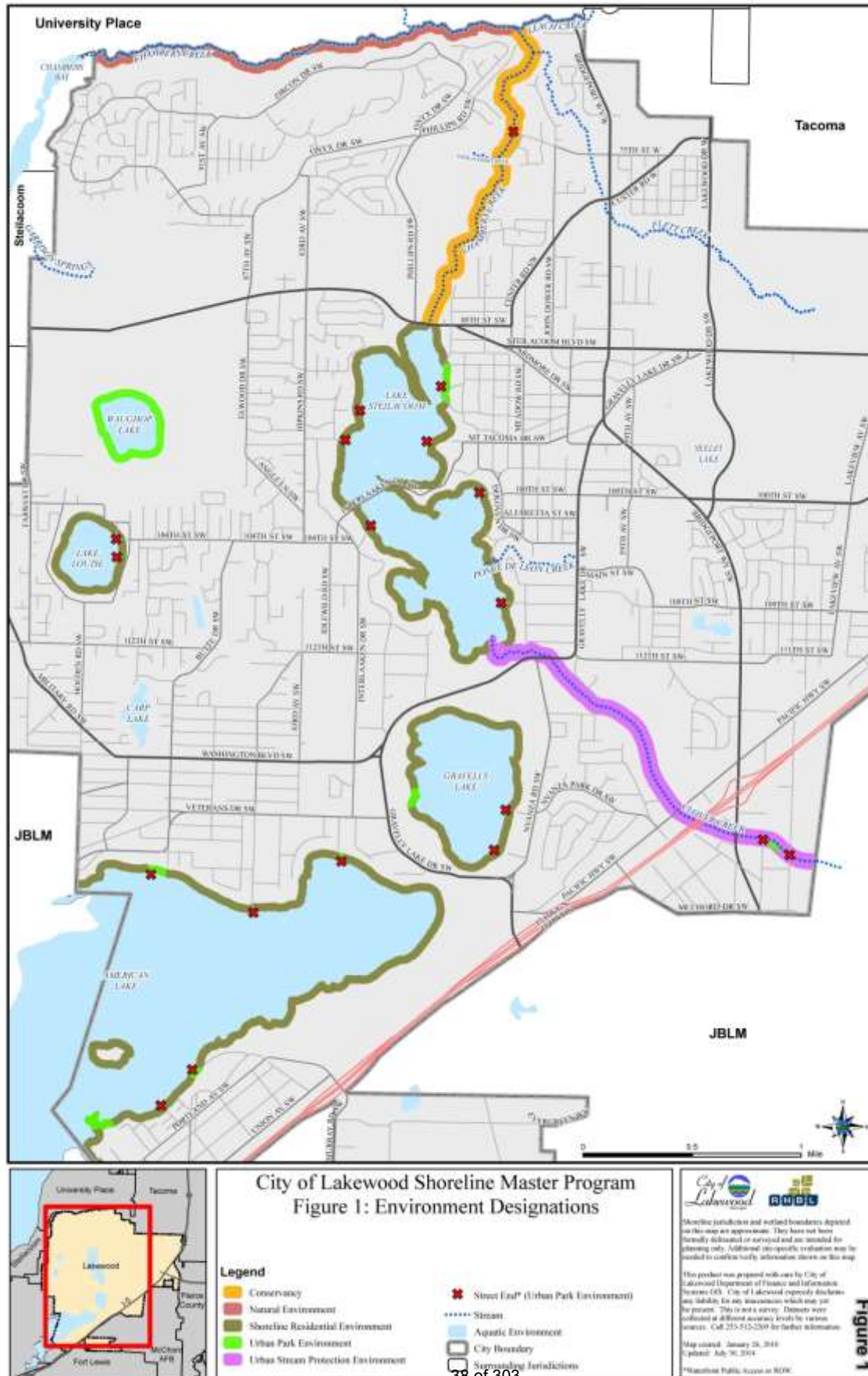
when their impacts are mitigated according to the sequence described in Chapter 3, Section B(4)(c)(3) of this SMP as necessary to assure no net loss of ecological functions.

- 6) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrological conditions.

**e) Regulations**

- 1) Shoreline Use: Permitted, conditional, and prohibited uses for the Aquatic environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table I of that Chapter.
  - 2) Development Standards: Shoreline related development standards for the Aquatic environment are summarized in Table II of Chapter 4.
-

Figure 1.





# Chapter 3    General Shoreline Provisions

## A.    Introduction

The following policies and regulations apply to all uses, developments, and activities in the shoreline area of the City of Lakewood. General policies and regulations are broken into different topic headings. Each topic includes a description of its applicability, general policy statements, and specific regulations. The intent of these provisions is to be inclusive, making them applicable to all environments, while detailing specific requirements for particular shoreline uses and activities. Topics include the following:

1.    Universally Applicable Policies and Regulations
2.    Archaeological and Historic Resources
3.    Critical Areas
4.    Environmental Impacts and Mitigation Sequencing
5.    Public Access
6.    Restoration
7.    Shorelines of Statewide Significance
8.    Shoreline Vegetation Conservation (Clearing and Grading)
9.    Water Quality, Stormwater, and Non-Point Pollution

These policies and regulations are in addition to other adopted ordinances and rules. Where conflicts exist between regulations, the requirement that most supports the provisions of RCW 90.58.020 shall apply. These interlocking development regulations are intended to make shoreline development responsive to specific design needs and opportunities along the City's shorelines, protect the public's interest in the shorelines' recreational and aesthetic values, and assure, at a minimum, no net loss of ecological functions necessary to sustain shoreline natural resources.

These provisions address the elements of a SMP as required by RCW 90.58.100(2) and implement the SMP Guidelines as established in WAC 173-26-186.



## **B. Policies and Regulations**

### **1. Universally Applicable Policies and Regulations**

#### **a) Applicability**

The following provisions describe how this SMP is to be applied and the requirements for all shoreline uses and modifications in all shoreline environment designations.

#### **b) Policies**

- 1) The City should keep records of all project review actions within shoreline jurisdiction, including shoreline permits and letters of exemption.
- 2) The City should involve affected federal, state and tribal governments in the shoreline application review process.
- 3) The City should periodically review shoreline conditions to determine whether other actions are necessary to ensure no net loss of ecological functions, protect and enhance visual quality, and enhance residential and recreational uses on the City's shorelines. Such review should include, but is not limited to:
  - a. Water quality;
  - b. Conservation of aquatic vegetation (noxious weed control and vegetation enhancement that supports more desirable ecological and recreational conditions);
  - c. Changing visual character as result of new residential development, including additions, and individual vegetation conservation practices (both along shoreline and in upland areas); and
  - d. Shoreline stabilization and modifications.

#### **c) Regulations**

- 1) All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the SMA and to the policies and regulations of this SMP.
- 2) The policies listed in this SMP are intended to provide broad guidance and direction for the "regulations" applied by the City. These policies constitute the Shoreline Element of the City's Comprehensive Plan.

- 3) If provisions within this SMP conflict, or where there is a conflict with other City policies and regulations, the provisions most directly implementing the objectives of the SMA, as determined by the Shoreline Administrator, shall apply unless specifically stated otherwise.
- 4) Shoreline uses, modifications and conditions listed as “prohibited” shall not be eligible for consideration as a variance or CUP. See Chapter 4 for Shoreline Use regulations and Chapter 6 (Administration) for exemptions, variances, conditional uses, and nonconforming use provisions.

## **2. Archaeological and Historic Resources**

### **a) Applicability**

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

### **b) Policies**

- 1) Due to the limited and irreplaceable nature of archaeological and historic resources, destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Native American tribes, and Washington State Department of Archaeology and Historic Preservation should be prevented.
- 2) New development should be compatible with existing historic structures and cultural areas.

### **c) Regulations**

- 1) Developers and property owners shall immediately stop work and notify the City, the Department of Archaeology and Historic Preservation and affected Native American tribes if archaeological resources are uncovered during excavation.
- 2) A site inspection or evaluation by a professional archaeologist in coordination with affected Native American tribes shall be required for all permits issued in areas documented to contain archaeological resources. Failure to comply with this requirement shall be considered a violation of the shoreline permit.
- 3) Significant archaeological and historic resources shall be permanently preserved for scientific study, education, and public observation. When the Shoreline Administrator determines that a site has significant archeological, natural scientific or historical value, a substantial development permit

and/or any other permit authorizing development or land modification shall not be issued which would pose a threat to the site. The Shoreline Administrator may require that a site be redesigned or that development be postponed in such areas to allow investigation of public acquisition potential and/or retrieval and preservation of significant artifacts.

- 4) In the event that unforeseen factors constituting an emergency as defined in WAC 173-27-040(2)(d) necessitate rapid action to retrieve, preserve, or protect property containing artifacts or data identified above from damage by the elements, the project may be exempted from the permit requirement. The City shall notify Ecology, the State Attorney General's Office, and the State Historic Preservation Office of such a waiver in a timely manner.
- 5) Archaeological sites located both in and outside the shoreline jurisdiction are subject to Chapter 27-44 RCW (Indian Graves and Records) and Chapter 27-53 RCW (Archaeological Sites and Records) and shall comply with Chapter 25-48 WAC or its successor as well as the provisions of this SMP.
- 6) Identified historical or archaeological resources shall be considered in park, open space, public access, and site planning with access to such areas designed and managed to give maximum protection to the resource and surrounding environment.
- 7) Interpretive signs, plaques or other means to provide information about historical and archaeological features shall be provided, except when the location of resources are protected by state or federal law or disclosure of such information would potentially endanger the resources in question.

### 3. Critical Areas

Critical areas in shoreline jurisdiction are regulated by this SMP. As such, the Critical Areas and Natural Resource Lands Regulations, [Ordinance No. 630 § 10, December 7, 2015, and Ordinance No. 362 3\(part\), November 15, 2004](#), codified under Chapter 14A of the LMC, is herein incorporated into this SMP with the exceptions and modifications noted below.

#### a) Applicability

Exceptions to the applicability of the Critical Areas and Natural Resource Lands Regulations in shoreline jurisdiction are provided below.

- 1) If provisions of the Critical Areas and Natural Resource Lands Regulations and other parts of the SMP conflict, the requirement that most supports the provisions of the SMA as stated in RCW 90.58.020 shall apply, as determined by the Shoreline Administrator.
- 2) The setbacks and buffer provisions for SMA water bodies contained in Chapter 4, Section C shall apply.

- 3) Provisions of the Critical Areas and Natural Resource Lands Regulations that are inconsistent with the SMA and SMP Guidelines shall not apply or are specifically modified in shoreline jurisdiction, as follows:
- a. The provisions do not extend shoreline jurisdiction beyond the limits specified in Chapter 2, Section C of this SMP.
  - b. Provisions relating to exemptions in LMC Section 14A.142.070 and allowable activities such as those outlined in LMC Sections 14A.154.090 and 14A.162.090 do not relieve the applicant from obtaining a substantial development permit or other permit or approval required under this SMP, or meeting the specific requirements identified in other sections of the SMP, including, but not limited to, mitigation sequencing and the no net loss requirement.
  - c. Provisions that include a “reasonable use determination” shall not apply within shoreline jurisdiction. Specifically, LMC Sections 14A.142.080 and 14A.142.090 do not apply. Such uses and developments require a variance in accordance with Chapter 6 of this SMP.
  - d. Provisions relating to variance procedures and criteria do not apply in the shoreline jurisdiction. Specifically, LMC Section 14A.142.110, which references variance procedures in the LMC, does not apply. Variance procedures and criteria within shoreline jurisdiction have been established in this SMP, Chapter 6 Section D and in WAC 173-27-170.
  - e. Provisions relating to nonconforming uses in LMC Section 14A.142.180 shall not apply. Please see Chapter 6, Section F for nonconforming development standards within shoreline jurisdiction.
  - f. Geologically Hazardous Areas. Provisions contained in LMC Section 14A.146.000 are hereby clarified and amended.
    - i. New development and the creation of new lots through subdivision shall not be allowed when it would cause foreseeable risk from geological conditions to people or improvements during the life of the development.
    - ii. New development that would require structural shoreline stabilization over the anticipated life of the development shall not be allowed, unless stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.
    - iii. All shoreline stabilization shall comply with Chapter 5, Section C(1 and 2).
  - g. Waughop Lake shall be subject to the setback requirements outlined in the SMP and not to the 35’ buffer requirement in the LMC Section 14A.154.060(B).

- h. Identification of wetlands and delineation of their boundaries shall be done in accordance with the most recent version of the approved federal wetland delineation manual and applicable regional supplements, pursuant to WAC 173-22-035. All areas within the shoreline management area meeting the wetland designation criteria in that procedure are hereby-designated critical areas and are subject to the provisions of this SMP. [See LMC Chapter 14.162.](#)
- i. Special permitted uses identified in LMC Section 14A.162.060 may be authorized pursuant to the requirements herein, however, these provisions do not relieve an applicant from complying with all other procedural and substantive requirements of this SMP, including, but not limited to, mitigation sequencing, and no net loss.
- j. Wetland Buffers. The following modifications to LMC Section 14A.162.080 shall apply.
  - i. Buffer width averaging in LMC Section 14A.162.080(B)(1) shall be limited such that the buffer at its narrowest point is no less than 75% of the standard width.
  - ii. Administrative buffer reductions allowed under LMC Section 14A.162.080(B)(2) shall be limited to 25% of the standard buffer width.
  - iii. Within shoreline jurisdiction, wetland buffers as outlined in LMC Section 14A.162.080 (A) for Category I wetlands shall not apply. Wetland buffers within shoreline jurisdiction for Category I wetlands shall be 300 feet.
- k. Mitigation. LMC Section 14A.162.100(A) shall not apply. Mitigation sequencing shall follow the requirements of Chapter 34, Section B(4)(c)(3).
- l. Agricultural Activities. LMC Section 14A.162.110 shall not apply.
- m. Alternative Review Process, Corps of Engineers, Section 404 Permit. LMC Section 14A.162.120 shall not be construed to modify the requirements contained in this SMP. In all cases, the buffer requirements identified herein shall apply and mitigation sequencing as required in Chapter 4, Section B(4)(c)(3) must be employed in the design, location and operation of the project.
- n. In-Stream Structures. Please see Chapter 5, Section C(5)(h) for regulations pertaining to in-stream structures such as dams and weirs.
- o. Channel Migration Zones (CMZ). Within the shoreline jurisdiction surrounding Chambers Creek, the Shoreline Administrator shall require a channel migration study when the City determines that a shoreline use, development or modification proposal has the potential to interfere with the process of channel migration. Potential CMZ reaches are shown on map 12 of the Shoreline Analysis Report dated October 1, 2010. The study shall include recommended measures (consistent with mitigation sequencing) that demonstrate how no net loss of ecological

functions associated with channel migration will be achieved. The proposal must demonstrate how it will avoid affecting the CMZ through utilization of nonstructural flood hazard measures and avoid the need for future shoreline modifications and structural flood hazard measures.

- p. Flood Hazard Overlay. LMC Section 14A.158.030 incorporates the Flood Hazard Overlay provisions of LMC Section 18A.40.100 by reference. In addition to the standards contained therein, the following shall apply:
- i. Where feasible, nonstructural flood hazard reduction measures should be implemented.
  - ii. Development shall not increase flood hazards significantly or cumulatively and must be consistent with adopted and approved comprehensive flood hazard management plans, other comprehensive planning efforts, the requirements of the SMA and Chapter 173-26 WAC.
  - iii. New development and uses, including the subdivision of land, shall not be established when it is reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the CMZ or floodway.
  - iv. The following uses may be authorized within the CMZ or floodway:
    - a. Ecological restoration or projects that protect ecosystem processes or ecological functions.
    - b. Bridges, utility lines and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected area.
    - c. Repair and maintenance of an existing legal use, provided such actions do not cause significant ecological impacts or increase flood hazards to other users.
    - d. Modifications or additions to an existing legal use, provided that further channel migration is not limited and the new development includes appropriate protection of ecological functions.
    - e. Development where existing structures prevent active channel movement and flooding.
    - f. Measures to reduce shoreline erosion, if it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition; the measure does not interfere with fluvial hydrological and geomorphological processes normally acting in natural

conditions; and that the measure includes appropriate mitigation of impacts to ecological functions associated with the stream.

- v. New structural flood hazard reduction measures shall be allowed in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with the requirements of Chapter 3, Section C(8).
- vi. New structural flood hazard reduction measures shall be placed landward of the associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration, or as noted below. Such flood hazard reduction projects may be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.
- vii. New structural public flood hazard reduction measures, such as dikes and levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and immitigable significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.
- viii. The removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and with this SMP 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.
- ix. Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by the State that evaluates cumulative impacts to the watershed system.
- x. Flood hazard overlay variance criteria and requirements in LMC Section 18A.40.160 are in addition to the standard shoreline variance criteria and requirements identified in Chapter 6, Section D(1).

## 4. Environmental Impacts and Mitigation Sequencing

### a) Applicability

A primary concern of the SMA is the environmental impact that uses and development may have on the fragile shorelines of the state. The following policies and regulations specify how environmental impacts shall be addressed in project design, construction, and regulatory approval and apply to all uses, activities, and development, regardless of whether a permit is required.

### b) Policies

- 1) Shoreline processes and ecological functions should be protected through regulatory and non-regulatory means, including acquisition of key properties and conservation easements, development regulation, and providing incentives to encourage ecologically sound design.
- 2) The scenic aesthetic quality of shoreline areas and vistas should be preserved to the greatest extent feasible.
- 3) Adverse impacts on the natural environment should be minimized during all development phases (e.g. design, construction, operation, and management) and mitigation sequencing as described in the regulations should be applied to achieve no net loss of shoreline ecological functions.
- 4) Shoreline developments that propose to enhance environmentally sensitive areas, natural characteristics, shoreline resources, and provide water oriented public access and recreational opportunities should be encouraged and are consistent with the fundamental policies of this SMP.

### c) Regulations

- 1) All shoreline uses and developments shall be located, designed, constructed, and mitigated to result in no net loss of ecological functions necessary to sustain shoreline natural processes.
- 2) All shoreline uses and activities shall be located and designed to prevent or minimize the need for shoreline protection structures (bulkheading, riprap, etc.), stabilization, landfills, dredging, groins, jetties, or substantial site regrading.
- 3) Where required, mitigation measures shall be applied in the following sequence listed in order of priority; lower priority measures shall be applied only when higher priority measures are determined to be infeasible or inapplicable:
  - a. Avoiding the impact altogether by not taking a certain action or parts of an action;



- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
  - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
  - d. Reducing or eliminating the impact over time by preservation and maintenance operations;
  - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
  - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
- 4) All shoreline developments shall be located, constructed, and operated so as not to be a hazard to public health and safety.
  - 5) Identified significant short term, long term, or cumulative adverse environmental impacts lacking appropriate mitigation to ensure no net loss of ecological functions necessary to sustain shoreline processes shall be sufficient reason for permit denial.
  - 6) Substantive authority under the State Environmental Policy Act may be used to mitigate any environmental impacts not specifically or adequately addressed by the regulations contained in this SMP.

## 5. Public Access

### a) Applicability

Public access includes the ability of the general public to reach, touch and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. There is a variety of types of public access, including, but not limited to, picnic areas, pathways and trails, promenades, bridges, street ends, ingress and egress, and parking.

Existing formal public access to shorelines within the City includes American Lake North Park, Harry Todd Park (American Lake), Edgewater Park (Lake Steilacoom), Fort Steilacoom Park (Waughop Lake), and Chambers Creek Canyon Park. In addition, there are a number of public street ends where there may be potential for developing public access.

## **b) Policies**

- 1) Public shoreline access should be provided and enhanced through purchase or retention of access easements, signage of public access points, and designation and design of specific shoreline access areas for wildlife viewing.
- 2) Shoreline areas that hold unique value for public enjoyment should be identified and retained purchased, or easements should be acquired for public use. Prioritize sites in terms of short and long-term acquisition and development.
- 3) Street crossings of Clover Creek and public street ends terminating at the creek should be considered for public access facilities.
- 4) Access should be provided for a range of users including pedestrians, bicyclists, boaters, and people with disabilities to the greatest extent feasible.
- 5) Provisions for shoreline access should be required when the proposed development can be shown to have an impact on public access to waters of the state. Shoreline projects shall not be permitted that result in any net loss of shoreline access.
- 6) Required public access exactions should be reasonably related to the nature and scope of the project's impact to public access resources. Proximity to the water, by itself, shall not constitute an impact or basis for an exaction.
- 7) The design, construction, and operation of permitted uses in the shoreline jurisdiction should be regulated to minimize interference with the public's use of the water.
- 8) Access to all shoreline areas should be improved through expanded non-motorized connections and transit service.
- 9) Shoreline public access trails should be integrated with other existing and planned regional trails where feasible to provide non-motorized access and community connections.
- 10) Existing and proposed public access and recreational uses should be ensured to not adversely affect the integrity and character of the shoreline, threaten fragile shoreline ecosystem, or impair or detract from the public's visual or physical access to the water.
- 11) Preservation and enhancement of the public's visual access to all shoreline areas should be encouraged through the establishment of setbacks and height limits that ensure view corridors, but not be construed to mean excess removal of vegetation that partially impairs views.

- 12) Physical access for swimming and non-motorized boating, passive recreation (such as interpretive trails), and habitat enhancement should be encouraged for the management of shoreline public access sites.
- 13) Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and they should be designed for accessibility by handicapped and physically impaired persons. Auxiliary facilities should be located outside of the shoreline management area or near the outer edge of the shoreline management area if feasible.
- 14) Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.
- 15) Regulations should ensure that the development of active recreational facilities results in no net loss of ecological function. Regulations should address upland concerns, such as the location and design of parking and auxiliary facilities and active play areas, as well as the development of in-water and nearshore structures, such as non-motorized boat launches, piers, and swimming areas.
- 16) Public access facilities should be constructed of environmentally friendly materials, use LID BMPs where feasible, and sustain natural processes.
- 17) Regulations should provide guidance for the construction of trails in particularly environmentally sensitive shoreline segments along Chambers Creek and Waughop Lake.

### **c) Regulations**

- 1) Where the City has shown that a project would have an adverse impact on existing public access to the waters of the state or create a new demand for public access, provisions shall be made to mitigate the impact/meet the projected demand and ensure that there is no net loss to public access resources or opportunities. Examples of impacts to shoreline access resources or new demand include, but are not limited to:
  - a. The development would result in increased demand for shoreline access by the location of new dwelling units within the 200' SMA jurisdiction without physical shoreline access for each unit.
  - b. The development would foreclose an opportunity to access an area without existing public access, or where the opportunity for access is unique.
  - c. The proposed development would interfere with existing public access.

- d. The proposed development would interfere with planned public access facilities shown in an adopted plan, ordinance, or resolution of the Lakewood City Council.
  - e. The proposed development would create additional potential demand for emergency response services without adequate potential access to the shoreline for emergency responders.
  - f. Instances where there is an existing public access or access easement applicable to the property.
- 2) The Community Development Director may authorize reasonable adjustments to development standards such as lot coverage, minimum lot width, setbacks, etc. in order to accommodate public access. Such adjustments may require a variance in accordance with Chapter 6(D)(1).
  - 3) Development exactions for public access shall be reasonably related to the scope and nature of the project and its impact to public access. Access may be limited to the final users or residents of the development where full public access is not required to mitigate the identified impact.
  - ~~4) Alternatively, a developer may provide a fee in lieu of actual on-site public access provisions if the City has adopted an applicable in-lieu fee program, and if such a program would effectively mitigate the impact of the development on shoreline access.~~
  - 5) Developments, uses, and activities shall be designed and operated to avoid blocking, reducing or adversely interfering with the public's visual or physical access to the water and the shorelines. In providing visual access to the shoreline, natural vegetation shall not be excessively removed either by clearing or by topping.
  - 6) Public access sites shall be connected directly to the nearest public street through a parcel boundary, tract, or easement.
  - 7) Public access sites shall be made barrier free for the physically disabled where feasible.
  - 8) Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
  - 9) Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat, if applicable, or short plat as a condition running in perpetuity with the land. Recording with the Pierce County Recorder's Office shall occur at the time of permit approval (See RCW 58.17.110; relating to subdivision approval).
  - 10) The standard state approved logo and other approved signs that indicate the public's right of access and hour of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. Alternatively, where public access is prohibited, property owners may install signs indicating this, subject to size and location restrictions in a required permit.

~~11~~10) Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.

~~12~~11) Physical public access shall be designed to prevent significant impacts to sensitive natural systems, follow the mitigation sequence identified in Chapter 3, Section B(4)(C)(4) and achieve no net loss of shoreline ecological function .

~~13~~12) Where public access is to be provided by a trail the requirements contained in Chapter 4, Section (D)(8) shall apply.

~~14~~13) Whenever financially feasible and practical, the City shall require the use of building materials and technologies whose production and use result in reduced environmental impacts when developing public access to the shoreline.

~~15~~14) The Administrator may waive the requirement for public access where it is demonstrated to be infeasible due to reasons for incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other applicable legal limitations. In determining infeasibility, the Administrator shall consider alternate methods of providing public access such as offsite improvements, viewing platforms, separation of uses and restricting hours for public access.

## 6. Restoration

### a) Applicability

Restoration refers to the reestablishment or upgrading of impaired ecological shoreline processes or functions. The following policies are intended to guide actions to improve shoreline ecological functions over time where such functions have been degraded. Restoration is distinct from mitigation measures necessary to achieve no net loss of shoreline functions and the City's commitment to plan for restoration will be implemented primarily through non-regulatory means (e.g. incentives, public projects and voluntary private actions).

### b) System-Wide Restoration Policies

- 1) Areas that are biologically and aesthetically degraded should be reclaimed and restored to the greatest extent feasible while maintaining appropriate use of the shoreline. Water quality of all water bodies within the shoreline management area should be improved by managing the quality and quantity of stormwater in contributing systems, consistent with the latest Ecology Stormwater Management Manual for Western Washington.
- 2) The quality, width, and diversity of native vegetation in protected corridors adjacent to lake and stream habitats should be increased to provide safe migration pathways for fish and wildlife, food,

nest sites, shade, perches, and organic debris. Strive to control non-indigenous plants or weeds that are proven harmful to native vegetation or habitats.

- 3) Work should continue with other jurisdictions and stakeholders on implementation of the Water Resource Inventory Area (WRIA) 12 Plan.
- 4) Funding for various restoration actions and programs should be sought from local sources and by working with other WRIA 12 jurisdictions and stakeholders to seek federal, state, grant and other funding opportunities.
- 5) A public education plan should be developed to inform private property owners in the shoreline zone and in the remainder of the City about the effects of land management practices and other unregulated activities (such as pesticide/herbicide use, car washing) on fish and wildlife habitats.
- 6) Lake area and wetland should be protected, enhanced, and restored throughout the contributing basin where functions have been lost or compromised.

**c) SMA Restoration Policies**

- 1) Waughop Lake (Fort Steilacoom Park), American Lake North Park, Harry Todd Park, and Edgewater Park should be targeted for restoration of shoreline natural resources and functions while ensuring continued public access to the shoreline.
- 2) Restoration of aquatic and riparian habitat along Clover Creek should be encouraged and accomplished over time through incentives for private property owners, stormwater management improvements, and City capital improvement projects.
- 3) The City should collaborate with Pierce County and the City of University Place for any restoration activities that would improve habitat and other ecological functions within Chambers Creek Canyon Park.
- 4) The City, Washington State Parks, and Pierce County should protect natural areas and continue to identify and implement shoreline restoration projects at Fort Steilacoom Park, while ensuring continued public access.
- 5) Ecological functions of lake shorelines should be improved by removing bulkheads and replacing these features to the extent feasible with bioengineered stabilization solutions to improve aquatic habitat conditions.
- 6) Ecological functions of streams and related habitat with stream bank stabilization should be improved using native vegetation.

- 7) American Lake North Park and Harry Todd Park should be targeted for limited habitat enhancements that are designed and sited to be compatible with the heavy active recreation use at these parks. Opportunities include planting of native vegetation where appropriate.
- 8) Habitat conditions should be improved by increasing large woody debris recruitment potential through plantings of trees along the lakeshore, particularly conifers. Where a safety hazard will not be created, installation of large woody debris should be encouraged to meet short-term needs.
- 9) Single-family residential properties should be targeted with incentives, outreach, and information for homeowners who are willing to voluntarily remove bulkheads, plant native vegetation and recruit large woody debris.
- 10) The amount and impact of overwater and in-water structures should be decreased within SMP lakes through minimization of structure size and use of more environmentally friendly materials, including grated decking.
- 11) American Lake North Park, Harry Todd Park, Springbrook Park and Open Space, and Chambers Creek Canyon Park should be targeted for the use of environmentally friendly materials and design during the future planned development of recreational facilities.
- 12) Native vegetation should be preserved and restored along shorelines to the greatest extent feasible.
- 13) Aquatic invasive species in American Lake, Gravelly Lake, Lake Louise, and Waughop Lake should be monitored and controlled, and participation in lake-wide efforts at Lake Steilacoom should continue to reduce populations of non-native aquatic vegetation.
- 14) Restoration projects may include shoreline modification actions such as vegetation modification, shoreline stabilization, dredging or filling in accordance with all applicable provisions in this SMP and provided the primary purpose of such actions is clearly restoration of natural character and ecological functions of the shoreline.
- 15) In accordance with RCW 90.58.580 [and WAC 173-27-215](#), a Substantial Development Permit is not required for development on land that is brought under shoreline jurisdiction due to a shoreline restoration project. However, projects are still required to comply with the regulations of this Master Program.
- 16) Projects taking place on lands that are brought into shoreline jurisdiction due to a shoreline restoration project that caused a landward shift of the OHWM may apply to the Administrator for relief from the SMP development standards and use regulations under the provisions of RCW 90.58.580. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of the Department of Ecology.

## 7. Shorelines of Statewide Significance

### a) Applicability

The SMA designated certain shoreline areas as shorelines of statewide significance. American Lake is a shoreline of statewide significance. Such shorelines are considered major resources from which all people of the state derive benefits, thus preference is given to uses, which favor long-range goals and support the overall public interest.

### b) Policies

In implementing the objectives for shorelines of statewide significance, the City should consider the following policies in order of priority, 1 being the highest and 6 being the lowest.

- 1) Recognize and protect the statewide interest over local interest.
  - a. Make all information associated with this SMP and proposed amendments publicly available, and consider comments and opinions from groups and individuals representing statewide interests when developing and amending the SMP.
- 2) Preserve the natural character of the shoreline.
  - a. Designate and administer shoreline environment designations and use regulations to protect and restore the shoreline ecology and character.
  - b. Protect and restore diversity of vegetation and habitat associated with shoreline areas.
- 3) Support actions that result in long-term benefits over short-term benefits.
  - a. Restrict or prohibit development that would irreversibly damage shoreline resources.
- 4) Protect the resources and ecology of the shoreline.
  - a. All shoreline development should be located, designed, constructed, and managed to avoid disturbance of and minimize adverse impacts to wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes.
  - b. Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities or general enhancement of shoreline areas.
- 5) Increase public access to publicly owned areas of the shorelines.



- a. Implement a comprehensive wayfinding signage program that directs the public to publicly owned shoreline areas.
- 6) Increase recreational opportunities for the public in the shoreline.
  - a. Plan for and encourage development of facilities for recreational use of the shoreline.

## **8. Shoreline Vegetation Conservation (Clearing and Grading)**

### **a) Applicability**

The following provisions apply to any activity, development, or use which results in the removal of or affect to shoreline vegetation, whether or not that activity requires a shoreline permit. Such activities include clearing, grading, grubbing, and trimming of vegetation. These provisions also apply to vegetation protection and enhancement activities.

### **b) Policies**

- 1) Native shoreline vegetation should be conserved to maintain shoreline ecological functions and/or processes and should mitigate the direct, indirect, and/or cumulative impacts of shoreline development, wherever feasible. Important functions of shoreline vegetation include, but are not limited to:
  - a. Providing shade necessary to maintain water temperatures required by salmonids and other organisms for all or a portion of their lifecycles.
  - b. Regulating microclimate in riparian and nearshore areas.
  - c. Providing organic inputs necessary for aquatic life, including providing food in the form of various insects and other benthic macroinvertebrates.
  - d. Stabilizing banks, minimizing erosion and sedimentation, and reducing the occurrence and severity of landslides.
  - e. Reducing introduction of fine sediment into the aquatic environment by minimizing erosion, aiding infiltration, and retaining runoff.
  - f. Improving water quality through filtration and vegetative uptake of nutrients and pollutants.
  - g. Providing a source of large woody debris to moderate stream flows, create hydraulic roughness, form pools and increase structural diversity for salmonids and other species.

- h. Providing habitat elements for riparian-associated species, including downed wood, snags, migratory corridors, food, and cover.
- 2) Management and control of noxious and invasive weeds should be encouraged, preferably by using non-toxic or natural controls. Control of such species should be done in a manner that retains on-site native vegetation, provides for erosion control, and protects water quality.
- 3) Adverse environmental and shoreline impacts of clearing and grading should be avoided wherever feasible through proper site planning, construction timing and practices, bank stabilization, soil bioengineering and use of erosion and drainage control methods. Maintenance of drainage controls should be a high priority to ensure continuing, effective protection of habitat and water quality.
- 4) All clearing and grading activities should be designed with the objective of maintaining natural diversity in vegetation species, age, and cover density.
- 5) Incentives for the retention and planting of native vegetation should be provided, and extensive lawns should be discouraged due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications particularly in areas recommended for designation as Shoreline Residential. Incentives could include additional flexibility with building setbacks from American Lake, Gravelly Lake, Lake Louise, and Lake Steilacoom, a simplified permit process with recommended planting plans, reduced or waived permit fees, and/or City participation in a pilot-project that promotes shoreline restoration.
- 6) The City should explore opportunities for the planting and enhancement of native vegetation at American Lake North Park, Harry Todd Park, Edgewater Park, and Fort Steilacoom Park.
- 7) In order to increase habitat and address other ecological functions within the shoreline environment such as wave attenuation, temperature regulation, and bank stabilization, homeowners and property managers should be encouraged to leave diseased and fallen trees in place along the shoreline edge provided the trees are not a danger to public safety or private property.
- 8) The removal of mature trees and native vegetation along American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek should be regulated in a manner that provides greater protection than the current Tree Preservation regulations (LMC Section 18A.50.300). In particular, removal of non-hazardous mature trees and native vegetation within the required setback of American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek should be severely restricted regardless of lot size or use.
- 9) The City should provide information to the public about environmentally appropriate vegetation management, landscaping for shoreline properties and alternatives to the use of pesticides and herbicides, which affect water quality and aquatic habitat.

10) Property owners should use the following BMPs when maintaining residential landscapes:

- a. Avoid use of herbicides, fertilizers, insecticides, and fungicides along drainage channels, and shores of American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek, as well as in the water.
- b. Limit the amount of lawn and garden watering to avoid surface runoff.
- c. Dispose of grass clippings, leaves, or twigs properly; do not sweep these materials into the street, into a body of water, or near a storm drain.
- d. Use native plant materials wherever possible in soil bioengineering applications and habitat restoration activities for aquatic weed management. Remove, destroy, and modify aquatic vegetation only to the extent necessary to allow water-dependent activities to continue and in a manner that minimizes adverse impacts to native plant communities. Handle and dispose of weed materials and attached sediments appropriately.

**c) Regulations**

1) Clearing and grading activities and related alteration of the natural landscape within shoreline jurisdiction shall only be allowed in association with a permitted shoreline use, activity or development, with limited exceptions as set forth below:

- a. Removal of noxious weeds as listed by the state in Chapter 16-750 WAC, provided such activity shall be conducted in a manner consistent with BMPs and the City's engineering and stormwater design standards, and native vegetation shall be promptly reestablished in the disturbed area. Noxious weeds removed under this provision shall be removed by hand or using small equipment to minimize negative impacts to the shoreline environment.
- b. Pruning consistent with accepted arboricultural practices, maintenance of existing ornamental landscapes, and other activities allowed pursuant to these regulations, if said modification is conducted in a manner consistent with this SMP and results in no net loss to ecological functions or critical fish and wildlife habitats.
- c. Maintenance or view restoration provided that said activity is conducted in a manner consistent with this SMP and results in no net loss to ecological functions or critical fish and wildlife habitat areas.
- d. Removal of non-native vegetation, including trees up to six inches in diameter at breast height (dbh), provided all areas of exposed soil are replanted or stabilized.

- 2) All clearing and grading activities must also adhere to the requirements of this SMP and the City's code pertaining to land clearing and grading (Chapter 12A LMC - Public Works; LMC Sections 18A.50.400 - 18A.50.445 - Landscaping; LMC Section 18A.50.231 - Landscape design objectives for specific uses). Additional clearing and grading performance standards may be required as a condition of permit issuance to ensure the proposal will result in no net loss of shoreline ecological functions.
- 3) Shoreline developments shall address vegetation conservation and maintenance through compliance with this Section, the critical area standards incorporated in Appendix A, mitigation sequencing required in Section B(4)(c)(3) of this Chapter, and any other regulations specific to vegetation management that may be contained in other chapters of this SMP.
- 4) In all shoreline areas, land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development.
- 5) Properties within the setbacks and buffers of Chambers Creek, Clover Creek, and Waughop Lake shall maintain native vegetation in an undisturbed state.
- 6) Native understory vegetation and trees within the shoreline setbacks in all environments shall be retained, unless removal is necessary to provide water access, to provide limited view corridors, to mitigate a hazard to life or property, or removal is in association with a permitted development. Any removed vegetation shall be replaced to assure no net loss in ecological functions.
- 7) Native understory vegetation and trees within the Natural environment shall be retained, unless removal is necessary to mitigate a hazard to life or property or allow for limited development associated with an educational, historic, water-oriented recreation, or cultural interpretation facility. Any removed vegetation must be replaced and/or enhanced to assure no net loss in ecological functions.
- 8) Within all other shoreline areas, outside of setbacks and buffers, tree removal shall be limited to the minimum necessary to accommodate proposed structures and uses or to mitigate a hazard to life or property. Significant trees, as defined in LMC Section 18A.50.320 shall be replaced according to a tree replacement plan prepared by a qualified professional that demonstrates how no net loss will be achieved.
- 9) The City shall require a shoreline vegetation management plan (SVMP) prepared by a qualified professional as part of any Substantial Development Permit that includes tree removal and land clearing. The City may require a SVMP for exempt activities or other permits involving tree removal and land clearing where necessary if project plans or other information does not clearly demonstrate compliance with this section. The SVMP shall document compliance with the mitigation sequence and identify appropriate compensatory mitigation, performance assurances, and maintenance and monitoring requirements necessary to assure no net loss of ecological functions. See Chapter 4,

Section C(3)(a)(4 and 5) for additional SVMP requirements when the proposal involves an administrative setback reduction. The Citywide tree standards contained in LMC Section 18A.50.300 (Ordinance #264, [August 20, 2001](#)) shall be the minimum compensatory mitigation standards and the Shoreline Administrator may require additional compensatory mitigation to meet the no net loss standard. All development, including, but not limited to, development on lots that are less than seventeen thousand (17,000) square feet that would otherwise be exempt under the Citywide tree regulations, shall be required to comply with the standards contained in this SMP as well as those in Title 18A LMC.

- 10) Restoration of any shoreline that has been disturbed or degraded shall use native plant materials, unless such restoration occurs within a developed and maintained ornamental landscape, in which case noninvasive plant materials similar to what most recently occurred on-site may be used.
- 11) Snags and downed trees that are not in the path of proposed improvements and do not pose a hazard to life or property shall be retained for wildlife habitat.
- 12) Placement of fifty (50) cubic yards or more of material from off-site (other than surcharge or preload), or the creation or raising of dry upland shall be considered fill and shall comply with the fill provisions in Chapter 5.
- 13) Surfaces cleared of vegetation and not developed must be replanted with native species or other species as approved by the City within one (1) year. Replanted areas shall be planned and maintained such that, within three (3) years, the vegetation is at least ninety (90) percent reestablished.
- 14) Stabilization of exposed erosion-prone surfaces within the shoreline environment shall utilize soil bioengineering techniques wherever feasible instead of hardscape or structural techniques.
- 15) Aquatic vegetation control shall only occur when native plant communities and associated habitats are threatened or where weeds restrict an existing water dependent use. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including Ecology and Washington Department of Fish and Wildlife (DFW) requirements. Aquatic vegetation control by mechanical methods is exempt from the requirement to obtain a substantial development permit only if the bottom sediment or benthos is not disturbed in the process. It is assumed that mechanical removal of accumulated vegetation at a level closer than two (2) feet to the root level will disturb the bottom sediment and benthos layer.
- 16) The control of aquatic vegetation by de-rooting, rotovating or other methods, which disturb the bottom sediment or benthos, shall be considered development for which a substantial development permit is required.
- 17) The application of herbicides or pesticides in American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek, wetlands, or surface water

conveyances requires a permit from the Ecology and may require preparation of a SEPA checklist for review by other agencies. The individual(s) involved must obtain a pesticide applicator license from the Washington State Department of Agriculture.

- 18) Prior to issuance of any construction, grading, or building permits, the City may require that the permittee post a cash guarantee to assure compliance with vegetation conservation standards. This amount should be equal one hundred fifty percent (150%) of the City Engineer's estimated cost of the project, or no less than two thousand dollars (\$2,000) unless specific proposal details support an alternative amount.
- 19) Prior to final issuance of a building permit, land use permit, or occupancy, a cash guarantee equal to thirty percent (30%) of the landscaping replacement cost may be required to assure compliance with vegetation conservation standards. The cash guarantee may be maintained for a three (3) year period, at which point the Shoreline Administrator will determine if the surety will be released or extended to maintain landscaped areas.
- 20) The Shoreline Administrator shall require the cash guarantees identified above when the proposal involves a variance, a setback reduction consistent with the flexible setback provisions of Chapter 4, Subsection C(3), or work within a critical area or buffer as defined in Appendix A.

## **9. Water Quality, Stormwater, and Non-Point Pollution**

### **a) Applicability**

The following section applies to all development and uses in shoreline jurisdiction that affect water quality and storm water quantity. Human occupation and shoreline area development affect water quality in numerous ways. For example, higher peak stormwater discharges at greater velocities caused by an increase in development and impermeable surfaces leads to scouring and stream bank erosion. Erosion increases suspended solids concentrations and turbidity in receiving waters, and carries heavy metals, household wastes, excess nutrients, and other pollutants into these waters. Increased nitrogen and phosphorus enrichment results in algal growth that depresses levels of dissolved oxygen in receiving waters. Water quality degradation adversely affects wildlife habitat and public health.

Maintaining high water quality standards and restoring degraded systems has been mandated in Chapter 90.58 RCW. In January of 2007, the City received its Western Washington Phase II Municipal Stormwater Permit from the Ecology. Under this permit, the City developed a Stormwater Management Program.

### **b) Policies**

- 1) All shoreline uses and activities should be located, designed, constructed, and maintained to mitigate the adverse impacts to water quality.

- 2) Water quality education efforts should be used to reduce the potential sources of pollutants to American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek and other natural waterways. Phosphorous reduction sources in the Lake Steilacoom and American Lake sub-basins and fecal coliform sources in the Chambers Creek and Clover Creek sub-basins should be emphasized until the City can provide sufficient data to Ecology to have 303d listing removed from these water bodies. The 303d listing is comprised of those waters that are in the polluted water category under the Clean Water Act, for which beneficial uses- such as drinking, recreation, aquatic habitat, and industrial use - are impaired by pollution. Phosphorous sources include, but are not limited to, failing septic systems and residential fertilizer application. Fecal coliform pollutant sources include, but are not limited to, failing septic systems, and duck, geese and dog feces.
- 3) Stormwater impacts should be addressed through the application of the Adopted Surface Water Design Manual and all applicable City stormwater regulations.
- 4) New impervious surfaces should be limited within the shoreline management area by setting maximum impervious surface standards for new development and redevelopment and by encouraging pervious pavement use and other LID BMPs where feasible.
- 5) The City should work with the Tacoma-Pierce County Health Department to ensure existing septic systems are working properly to prevent groundwater and surface water degradation through excessive inputs of nutrients (nitrogen and phosphorus) and hazardous microbes, with an emphasis on the Chambers Creek and Clover Creek subbasins due to their 303(d) listing for fecal coliform.
- 6) The City should work with Pierce County Public Works and Utilities and the Tacoma-Pierce County Health Department to require sanitary sewer system connection when existing properties on septic systems are developed, redeveloped, or substantially modified.
- 7) The City should continue to provide general information to the public about the land use and human activities which impact water quality by encouraging educational curricula that provide students with first hand exposure to the issues and solutions, and through community activities, such as Adopt-A-Stream programs.
- 8) The City should encourage homeowners and property managers to maintain and enhance vegetation that supports water quality functions and to use non-chemical weed and pest control solutions and natural fertilizers.

### **c) Regulations**

- 1) All shoreline uses and activities shall utilize BMPs to minimize any increase in surface runoff and to control, treat, and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected during both construction and operation. Physical control

measures include, but are not limited to, catch basins, settling ponds, oil/water separators, filtration systems, grassy swales, interceptor drains, and landscaped buffers. All types of BMPs require regular maintenance. BMPs are identified in the City's adopted stormwater manual.

- 2) Structural stormwater facilities, such as vaults, pipes and catch basins, shall be located outside of the shoreline setback, unless the Shoreline Administrator determines that such location is not feasible.
- 3) Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any bodies of water or to be discharged onto the land.
- 4) The direct release of oil and hazardous materials or chemicals onto the land or into water is prohibited. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and 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 as determined by the Shoreline Administrator.
- 5) All shoreline development shall comply with the applicable requirements of the City's adopted Surface Water Design Manual and all applicable City stormwater regulations.
- 6) All shoreline development shall implement applicable LID BMPs where feasible, pursuant to the standards contained in the adopted Surface Water Design Manual and the most recent edition of the Low Impact Development Technical Guidance Manual for Puget Sound.



|

# Chapter 4 Shoreline Use Provisions

## A. Applicability

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

This SMP contains limited provisions related to commercial or industrial development along the shorelines of American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek. These water bodies, with the exception of Waughop Lake and portions of Chambers Creek, are substantially developed with residential uses, with little undeveloped shoreline remaining. As such, access to the water is primarily related to recreation and residential uses and is not considered particularly important to commercial or industrial interests.

## B. General Policies

- 1) When determining allowable uses and resolving use conflicts within the City's shoreline jurisdiction, the following should be applied in the order of preference listed below:
  - a. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health.
  - b. Reserve shoreline areas for water-dependent and associated water related uses.
  - c. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.
  - d. Treat single-family residential uses as a preferred use and encourage the continuation and development of this use where it can occur without significant impact to ecological functions or displacement of water-dependent uses.
  - e. Limit non-water-oriented uses to those locations where the above-described uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the SMA, including opportunities for ecological enhancements and public access improvements.

- 2) Proposed shoreline use should be consistent with the City's Comprehensive Plan. Conversely, upland uses on adjacent lands outside of immediate SMA jurisdiction (in accordance with RCW 90.58.340) should be consistent with the purpose and intent of this SMP.
- 3) All development and redevelopment activities within the City's shoreline jurisdiction should be designed to ensure public safety, enhance public access, protect existing shoreline and water views, and achieve no net loss of shoreline ecological functions.
- 4) The use of "Green Building" practices should be encouraged, and in some cases required where feasible, such as LID and those promulgated under the Leadership in Energy and Environmental Design (LEED) and Green Built programs, for new development within the shoreline jurisdiction.
- 5) Proposed shoreline uses should not infringe upon the rights of others or upon the rights of private ownership.
- 6) Shoreline uses, which enhance their specific areas or employ innovative features for purposes consistent with this program, should be encouraged.
- 7) Restoration in shoreline areas that have been degraded or diminished in ecological value and function because of past activities or catastrophic events should be encouraged.

## **C. Shoreline Use and Development Standards**

Table I and Table II indicate the allowable uses by shoreline environment designation and the key standards that apply to development. The standards in this section are supplemental to standards in other portions of this SMP.

# 1. Shoreline Use Table

**Table I. Shoreline Uses**

**KEY**

**P**<sup>3</sup> = Permitted Use

**C** = Conditional Use

**X** = Prohibited

Shoreline uses are allowed only if permitted in both the shoreline environment designation and the underlying zone.

A use that occurs on both landward and waterward of the OHWM must meet the requirements of both the specific upland shoreline environment designation as well as the aquatic environment designation. Please also refer to specific use policies and regulations in Section 4 below.

SHORELINE USE	SHORELINE RESIDENTIAL	URBAN-STREAM PROTECTION	URBAN PARK	CONSERVANCY	NATURAL	AQUATIC
<b>Agriculture</b>	X	X	X	X	X	X
<b>Aquaculture</b>	C	C	C	C	X	C
<b>Boating Facilities</b> <sup>1</sup>						
Marinas (Public or Private)	C	X	C	X	X	C
Floating Homes and Live Aboards	X	X	X	X	X	X
Community Piers and Docks (Private Shared Use)	P	X	P	X	X	P
Public Pier	C	X	P	X	X	P
Boat Launch <sup>4</sup>	C	X	C	X	X	C
<b>Water-Oriented Commercial</b> <sup>2</sup>	C	P	C	C	X	C
<b>Non-Water Oriented Commercial</b> <sup>2</sup>	C	P	C	C	X	X
<b>Forest Practices</b>	X	X	X	X	X	X
<b>Industrial</b>	X	X	X	X	X	X
<b>Mining</b>	X	X	X	X	X	X
<b>Parking</b>						
Parking (As a Primary Use)	X	X	X	X	X	X
Parking (As an Accessory Use)	P	P	P	X	X	X
<b>Recreation</b> <sup>3</sup>						
Water-Dependent	P	P	P	P	P	P
Water-Enjoyment	P	P	P	P	P	P
Non-Water Oriented (As an Accessory Use)	P	P	P	P	C	X
Non-Water Oriented (As a Primary Use)	X	C	X	X	X	X

**KEY**

**P**<sup>3</sup> = Permitted Use

**C** = Conditional Use

**X** = Prohibited

Shoreline uses are allowed only if permitted in both the shoreline environment designation and the underlying zone.

A use that occurs on both landward and waterward of the OHWM must meet the requirements of both the specific upland shoreline environment designation as well as the aquatic environment designation. Please also refer to specific use policies and regulations in Section 4 below.

**SHORELINE USE**

	SHORELINE RESIDENTIAL	URBAN-STREAM PROTECTION	URBAN PARK	CONSERVANCY	NATURAL	AQUATIC
<b>Residential Structures</b>						
Single-Family	P	P	C	C	C	X
Multi-Family	P	P	X	X	X	X
<b>Scientific, Historical, Cultural, or Educational Uses</b>	P	P	P	P	P	P
<b>Transportation Facilities</b>						
New Public Roads	P	C	C	C	C	C
Expansion of Existing Roads and New Driveways	P	P	P	P	C	C
Major Trails	C	C	C	C	X	C
Minor Trails	P	P	P	P	P	C
<b>Utilities (Primary)</b>						
Solid Waste Disposal or Transfer Sites	X	X	X	X	X	X
Other	C	C	C	C	C	C
<b>Utilities (Secondary)</b>						
All	P	P	P	P	C	C
<b>Other Uses and Activities</b>						
Restoration Activities	P	P	P	P	P	P

<sup>1</sup> See Chapter 5 (Shoreline Modifications) for specific types of in-water or over water structures/facilities allowed in each environment (e.g. piers, docks and floats). Please note, boat ramps and overwater structures are not allowed in the Urban - Stream Protection, Conservancy, and Natural environments.

<sup>2</sup> In the Shoreline Residential, Conservancy and Urban Park environments, only water-oriented commercial activities or limited accessory commercial uses are allowed, e.g. day care in Shoreline Residential and concessions in the Urban Park, per the use standards in Commercial Uses in this SMP and in the underlying zoning.

<sup>3</sup> See permit requirements and exemptions in Chapter 5 and Chapter 6.

<sup>4</sup> Launching rails are not considered boating facilities for purposes of this Section. Launching rails are not intended to serve more than four (4) residences. For launching rail provisions, see Chapter 5.

## 2. Shoreline Development Standards Table

Table II. Shoreline Development Standards

<b>DEVELOPMENT STANDARD</b>	<b>SHORELINE RESIDENTIAL</b>	<b>URBAN - STREAM PROTECTION</b>	<b>URBAN PARK</b>	<b>CONSERVANCY</b>	<b>NATURAL</b>	<b>AQUATIC</b>
Maximum Height <sup>1</sup>	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	N/A <sup>3</sup>
Shoreline Setback or Buffer By Waterbody <sup>2,4</sup>  Note: Setback requirements apply to all lakes and buffer requirements apply to streams. See definitions for more information.  Along streams, an additional 8 ft. building setback shall apply to edge of the buffer per Critical Area standards.	65 ft. Setback  (Note: May be reduced to 50 ft. with enhancement)	Clover Creek 65 ft. Buffer  (Note: May be reduced to 50 ft. with enhancement)	100 ft. Setback for Urban Park properties on all lakes  (Note: May be reduced to 75 ft. with enhancement)  Clover Creek 65 ft. Buffer  (Note: May be reduced to 50 ft. with enhancement.)	150 ft. Buffer  (Note: No reduction allowed unless a variance is obtained)	150 ft. Buffer  (Note: No reduction allowed unless a variance is obtained)	N/A <sup>3</sup>

<b>DEVELOPMENT STANDARD</b>	<b>SHORELINE RESIDENTIAL</b>	<b>URBAN - STREAM PROTECTION</b>	<b>URBAN PARK</b>	<b>CONSERVANCY</b>	<b>NATURAL</b>	<b>AQUATIC</b>
Maximum Impervious Surface Coverage within shoreline jurisdiction <sup>5</sup>	35% (R1 and R2) 50% (R3) 60% (R4) 50% (ARC) 60% (MR2) 70% (NC1) 80% (NC2)  Provided an additional 10% of site coverage using pervious pavements shall be allowed	See adjacent column for Shoreline Residential	30%	20%	5%	N/A <sup>3</sup>
Maximum Impervious Surface or Hard Surface Coverage within Shoreline Setback or Buffer.  Note: Pervious pavements required where feasible	10% within 25 ft. of the OHWM, 20% within remaining portion of setback	See critical area buffer requirements	10% within 25 ft. of OHWM, 20% within remaining portion of setback for Lakes  See critical area buffer requirements for stream	See critical area buffer requirements	See critical area buffer requirements	N/A <sup>3</sup>
Minimum Lot Frontage	50 ft. (Lake Louise)  60 ft. (American Lake and Gravelly Lake)  70 ft. (Lake Steilacoom)	100 ft.	No further subdivision allowed	No further subdivision allowed	No further subdivision allowed	N/A <sup>3</sup>

<b>DEVELOPMENT STANDARD</b>	<b>SHORELINE RESIDENTIAL</b>	<b>URBAN - STREAM PROTECTION</b>	<b>URBAN PARK</b>	<b>CONSERVANCY</b>	<b>NATURAL</b>	<b>AQUATIC</b>
Minimum Lot Size and Lot Density	Underlying zoning: R1 - 25,000 gsf R2 - 17,000 gsf R3 - 7,500 gsf R4 - 5,700 gsf	Underlying zoning: R1 - 25,000 gsf R2 - 17,000 gsf R3 - 7,500 gsf R4 - 5,700 gsf MF2 - 35 dua MF3 - 54 dua	No further subdivision is allowed	No further subdivision allowed	No further subdivision is allowed	N/A <sup>3</sup>

<sup>1</sup> Height limits apply to all permanent and temporary structures. Development shall also be subject to the height limits established by the underlying zoning. The height limit shall not apply to television antennas, chimneys, flagpoles, public utilities, and similar appurtenances.

<sup>2</sup> Setbacks are measured landward, on a horizontal plane perpendicular to the shoreline. The standard setback applies unless the applicant implements voluntary enhancements as described in the following regulations and in Table III below. Where allowed, the setback may be reduced by the Shoreline Administrator to the minimum setback indicated in Table II. See zoning regulations for interior lot setbacks and other requirements that apply to specific zones. In the event of a conflict between a provision in this SMP and a provision in another part of the LMC, the requirement that provides the most protection to the shoreline management area shall be applied.

<sup>3</sup> Not Applicable. Land-based standards do not apply in the Aquatic environment because only water dependent structures and development, such as docks, are allowed. Height of all structures shall be the minimum necessary for the proposed water dependent use.

<sup>4</sup> Activities and improvements associated with ecological restoration or interpretation, water-oriented uses, and public access are not required to meet the minimum setback. However, where such development can be approved within the minimum setback, the placement of structures and hard surfaces shall be limited to the minimum necessary for the successful operation of the use. In no case shall parking be allowed within the minimum setback. Allowed structures include (but are not limited to) upland boathouses, gazebos, viewing platforms and decks.

<sup>5</sup> Partial credit may be given for using pervious pavements for driveways, parking areas, walkways, and patios, based on City review of the specifications for the particular product used. In no case shall the credit be used to develop more than an additional 10% of the lot with the pervious pavement. Please note that impervious surface coverage may be further limited within the setback or buffer pursuant to the development standards in this Chapter.

### 3. ~~Flexible~~ Shoreline Setback and Buffer Regulations Administration

- a) The following standards shall apply for all proposals that request a reduction in the standard shoreline setback or buffer identified in Table II:



- 1) The standard setback or buffer may be reduced down to the minimum setback or buffer identified in Table II for each eligible shoreline environment designation and water body when setback reduction impacts are mitigated using the options provided in Table III to achieve an equal or greater protection of lake or stream ecological functions. Any setback or buffer reduction requests beyond that allowed in Table II shall require a variance. Within the Conservancy and Natural environments, buffer reductions shall only be approved as part of the variance process. Variance approval criteria are described in Section 6.D.
- 2) At least one (1) water-related action must be undertaken in order to achieve the full reduction allowed.
- 3) A maximum of ten (10) feet in cumulative reduction may be achieved under Upland Related Actions.
- 4) All property owners who obtain approval for a setback or buffer reduction must have prepared and agree to adhere to a SVMP approved by the Shoreline Administrator and record the final approved setback or buffer and corresponding conditions in a Notice on Title. The Notice on Title shall include a statement regarding the existence of the SVMP and it shall be provided to the Shoreline Administrator.
- 5) The SVMP shall detail the required restoration of native vegetation. The SVMP shall consist of a mixture of trees, shrubs, and groundcover and be designed to improve shoreline ecological functions. The SVMP shall include appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality. The SVMP shall be completed by a qualified professional and include a monitoring and maintenance program that shall, at a minimum, include the following:
  - a. The goals and objectives for the mitigation plan;
  - b. A description of how required mitigation sequencing was implemented;
  - c. Mitigation performance standards, including standards for vegetation coverage and survival;
  - d. A monitoring plan that includes annual progress reports submitted to the Shoreline Administrator for a period of no less than two (2) growing seasons nor more than five (5) years sufficient to establish that performance standards have been met as determined by the Shoreline Administrator; and
  - e. A contingency plan.
- 6) Whenever the Shoreline Administrator determines through progress report review that mitigation performance standards have not been achieved, the property owner shall be required to institute corrective action, which shall also be subject to further monitoring as provided in this section.

- 7) The Shoreline Administrator may require a cash guarantee or other security in an amount sufficient to guarantee that all required mitigation measures will be completed in a manner that complies with conditions of approval and to guarantee satisfactory workmanship and materials for a period not to exceed five (5) years. The Shoreline Administrator shall establish the conditions of the security according to the nature of the proposed mitigation, maintenance or monitoring and the likelihood and expense of correcting mitigation or maintenance failures.
- 8) All costs associated with the mitigation/monitoring and planning including City expenses, shall be the responsibility of the applicant.
- 9) Impervious surface coverage within the approved lake setback shall be limited to ten percent (10%) within twenty-five (25) feet of the OHWM and twenty percent (20%) within the remaining portion of the applied setback. All development within buffers, including impervious surface, is subject to the requirements for Critical Areas contained in this SMP.

**Table III. Shoreline Setback and Buffer Reduction Mechanisms**

<b>REDUCTION MECHANISM</b>		<b>REDUCTION ALLOWANCE</b>
Water Related Actions		
1	Removal of an existing bulkhead which is located at, below, or within 5 ft. landward of the shoreline's OHWM and subsequent shoreline restoration to a natural or semi-natural state, including restoration of topography, beach/substrate (lake bottom) composition and stabilization of areas that have been disturbed by the bulkhead removal with native vegetation.	Bulkhead removal on at least 75% of frontage: 15 ft.  50% of frontage: 10 ft.  25% of frontage: 5 ft.
2	Restoration of natural shoreline conditions (e.g. no bulkhead or other unnatural shoreline feature such as upland impervious surfaces or other structural alterations allowed) within 10 ft. of the OHWM, including restoration of native vegetation. This reduction will only be granted if ecological functions would be improved relative to the existing condition.	10 ft.
3	Existing hard structural stabilization at or near the OHWM is removed and new hard structural shoreline stabilization measures are setback from the OHWM between two (2) ft. to four (4) ft. based on feasibility and existing conditions and are sloped a maximum angle of 3 vertical: 1 horizontal to provide dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat. See Chapter 6 for stabilization measure types and additional standards. For purposes of this reduction mechanism only, need for the replacement structure is not required to be demonstrated as outlined in Chapter 5, Section (C)(2)(c), Shoreline Stabilization – Replacement and Repair.	5 ft.
4	Soft structural shoreline stabilization measures are installed waterward of the OHWM on a site currently containing only hard stabilization. Measures may include the use of gravels, cobbles, limited use of boulders in conjunction with other measures, and logs, as well as vegetation. The material shall be of a size and placed to remain stable and accommodate alteration from wind and boat-driven waves and shall be graded to a maximum slope of 1 vertical: 4 horizontal	5 ft.
Upland Related Actions		
5	Restoration of native vegetation (and preservation of existing trees and native vegetation) in at least 75% of the reduced (i.e. that portion remaining after reductions are applied) setback area. The remaining 25%	10 ft.

REDUCTION MECHANISM	REDUCTION ALLOWANCE
6	5 ft.
7	5 ft.
8	5 ft.
9	5 ft.
10	5 ft.

## **D. Specific Shoreline Use Policies and Regulations**

### **1. Aquaculture**

Aquaculture is the culture or farming of fish, shellfish, or other aquatic plants and animals. This activity is of statewide interest. Aquaculture is dependent on the use of the water area. When consistent with control of pollution and prevention of damage to the environment, it is a preferred use of the water area. The technology associated with some forms of aquaculture is still in its formative stages and experimental. Thus, this SMP recognizes the necessity of some latitude in the development of this use.

#### **a) Policies**

- 1) Aquaculture should not be permitted in areas where it would result in a net loss of ecological functions or significantly conflict with navigation and other water-dependent uses.
- 2) Aquaculture facilities should be designed and located to prevent the spread of disease to native aquatic life, significant ecological impacts caused by new nonnative species, or significant impacts on the shorelines' aesthetic qualities.

#### **b) Regulations**

- 1) Aquaculture development shall conform to applicable state and federal policies and regulations, provided they are consistent with the SMA and this SMP to ensure no net loss of ecological function.
- 2) The applicant shall demonstrate that the proposed facility meets the requirements of Policy 2 above.
- 3) Impacts to ecological functions shall be mitigated in accordance with the sequence described in Chapter 3, Section 4(C)3.

### **2. Boating Facilities**

#### **a) Applicability**

Boating facilities, including community piers, public or community boat launches and marinas, shall be subject to the policies and regulations of this Section and those for specific types of facilities in Chapter 5, Section C(5). Boating facilities as defined in this SMP do not apply to residential moorage facilities serving four (4) or fewer single-family residences. Policies and regulations for all overwater structures and moorage facilities, including those serving four (4) or fewer single-family residences, are addressed in Chapter 5, Section C(5).

Accessory uses found in boating facilities may include fuel docks and storage, boating equipment sales and rental, wash-down facilities, fish cleaning stations, repair services, public launching, bait and tackle shops, potable water, waste disposal, administration, parking, groceries, restrooms and dry goods.

## **b) Policies**

- 1) Boating facilities should be located and designed to ensure no net loss of ecological functions or other significant adverse impacts, and, where feasible, enhance degraded and/or scarce shoreline features.
- 2) Boating facilities should not unduly obstruct navigable waters and should consider adverse effects to recreational opportunities such as fishing, pleasure boating, swimming, beach walking, picnicking, and shoreline viewing.
- 3) Boating facilities should be located in areas of low biological productivity as documented in a report prepared by a qualified professional at time of application.
- 4) Boating facilities should be located and designed so their structures and operations will be aesthetically compatible with the neighboring area and will not unreasonably impair shoreline views. However, the need to protect and restore functions and to provide for water-dependent uses carries higher priority than the protection of views.
- 5) Limits should be put on the size of community docks to address the potential for impacts on neighboring properties.
- 6) Accessory uses at boating facilities should be limited to water-oriented uses, or uses that provide physical and/or visual shoreline access for substantial numbers of the general public. Non-water-dependent accessory uses should be located outside of shoreline jurisdiction or outside of the shoreline setback.

## **c) Regulations**

- 1) Location Standards.
  - a. New boating facilities shall not be permitted in areas where dredging will be required or where impacts to shoreline ecological functions and processes cannot be mitigated.
  - b. New boating facilities shall not significantly affect the rights of navigation on the water of the state.
  - c. Boating facilities shall not be located where their development would reduce the quantity or quality of critical fish and wildlife habitat areas as defined in LMC Section 14A.154.020 (Critical

Areas and Natural Resource Lands Regulations, Ordinance No.362 3(part), 2004) or where significant ecological impacts would occur.

- d. Boating facilities shall be located and designed with the minimum necessary shoreline stabilization to protect facilities, users, and watercraft from floods or destructive storms.
- e. Boating facilities shall not be located where it would be incompatible with the need to protect the public health, safety, and welfare.
- f. Boating facilities shall be located only where adequate utility services are available, or where they can be provided concurrent with the development.

2) Facility Design.

- a. All boating facilities shall be designed to avoid and minimize impacts. All unavoidable impacts must be mitigated.
- b. All boating facilities shall be the minimum size necessary to accommodate the anticipated demand. Specifically, the amount of overwater cover, the size, and number of in-water structures, the waterward length of the facility, and the extent of any necessary associated shoreline stabilization or modification shall be minimized. Boating facilities shall meet all applicable Shoreline Modification regulations in Chapter 5. Community and public moorage facilities shall meet the size and usage requirements established in Chapter 5, Section C(5).

3) Site Design and Operation.

- a. Boating facilities shall be designed so that lawfully existing or planned public shoreline access is not blocked, obstructed, nor made dangerous.
- b. Boating facilities shall provide physical and/or visual public or community access for as many water-oriented recreational uses as possible, commensurate with the scale of the proposal, including, but not limited to, physical and visual access to waterbodies, public piers or fishing platforms.
- c. Upland boat storage may be allowed within shoreline jurisdiction in the Urban Park and Shoreline Residential environments, provided impervious surface limitations and other standards are met, mitigation sequencing is followed and impacts can be mitigated to achieve no net loss.
- d. Accessory uses at boating facilities shall be located outside of shoreline jurisdiction where feasible and shall be limited to water-oriented uses or uses that support physical or visual shoreline access for substantial numbers of the general public. Accessory development may

- include, but is not limited to, parking, non-hazardous waste storage and treatment, stormwater management facilities, and utilities where necessary to support the water-oriented use.
- e. The applicant shall comply with all state agency policies and regulations, including all applicable health, safety, and welfare requirements associated with the primary or accessory use.
  - f. The streets serving the proposed facility must handle the traffic generated by such a facility safely and conveniently.
  - g. The facility must be limited to day moorage only. No live-aboards or floating homes are allowed.
  - h. Covered moorage is allowed only in the Shoreline Residential environment by a CUP. Boat lift canopies are a permitted use in the Shoreline Residential environment. See Chapter 5, Section (C)(5)(d)(8) and (9) for applicable standards.
  - i. The perimeter of parking, upland boat storage, and other storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses or scenic areas.
  - j. All facilities must have provisions available for cleanup of accidental contaminants and spills
  - k. Public access shall be required, pursuant to the requirements and exemptions in the Public Access regulations contained in Chapter 3.
- 4) Boat Launch.
- a. Location Standards - Boat launches shall be sited so that they do not significantly damage fish and wildlife habitats and shall not occur in areas with native emergent vegetation. Native upland vegetation removal shall be minimized to the greatest extent feasible. All facilities shall be sited and designed per required mitigation sequencing.
  - b. Public launch ramps shall be located only on stable shorelines where feasible and where water depths are adequate to eliminate or minimize the need for dredging, filling, beach enhancement, or other maintenance activities.
  - c. The design shall comply with all regulations as stipulated by state and federal agencies, affected tribes, or other agencies with jurisdiction.
  - d. The applicant shall demonstrate that the proposed length of a boat launch is the minimum necessary to launch the intended craft safely. In no case shall the ramp extend beyond the point where the water depth is eight (8) feet below the OHWM, unless the Shoreline Administrator determines that a greater depth is needed for a public boat launch facility.



- e. Design Standards.
  - i. Boat launches for non-motorized boats shall be constructed of gravel or other similar natural material.
  - ii. Preferred launch ramp designs for motorized boats, in order of priority, are:
    - a. Open grid designs with minimum coverage of lake 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 shoreline profile.
    - d. Standard concrete pads.

### **3. Commercial Development**

#### **a) Applicability**

Commercial development means those uses that are involved in wholesale, retail, service, and business trade. Uses and activities associated with commercial development that are identified as separate uses in this program include Agriculture, Aquaculture, Mining, Industry, Boating Facilities, Transportation Facilities, and Utilities. Piers and docks, bulkheads, shoreline stabilization, flood protection, and other shoreline modifications are sometimes associated with commercial development and are subject to those shoreline modification regulations in Chapter 5 in addition to the standards for commercial development established herein.

#### **b) Policies**

- 1) Commercial development should be limited in the shoreline area based on the residential and recreational nature of the existing shoreline.
- 2) Water-oriented commercial developments should be preferred over non-water-oriented commercial uses.
- 3) Commercial developments should be encouraged to incorporate LID BMPs where feasible into new and existing projects.

#### **c) Regulations**

- 1) New commercial uses shall be prohibited within all shoreline areas except where the underlying zoning permits such uses, and one or more of the criteria identified below are met:

- a. The use is water-oriented;
  - b. The use is an accessory use to a permitted recreational use or facility within the Urban Park or Conservancy environment. Examples include, but are not limited to:
    - i. Concession stands in City Parks,
    - ii. Booths associated with festivals sponsored by the City, and private parties or receptions and banquets, and
    - iii. Boat rentals.
  - c. The use is a home occupation within the Shoreline Residential environment provided they meet the requirements of LMC Sections 18A.70.200 and 18A.70.250 pertaining to Home Occupations.
  - d. The site is physically separated from the shoreline by another property or public right of way.
  - e. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the SMA's objectives, such as providing public access and ecological restoration.
  - f. Navigability is severely limited at the proposed site, and the proposed commercial use provides significant public benefit with respect to the SMA's objectives, such as providing public access and ecological restoration; or
  - g. The use is non-water oriented and replaces an existing non-water oriented use in an existing commercial building. For purposes of this regulation, replace means the footprint and general intensity of the commercial uses are the same.
- 2) Water oriented uses shall incorporate design and operational elements that clearly demonstrate that they meet the definition of water dependent, water related or water oriented uses.
  - 3) Commercial uses shall provide public access as required in Chapter 3, Section B(5) and ecological restoration where feasible and shall not negatively impact existing navigation, recreation or public access.
  - 4) All commercial loading and service areas shall be located or screened to minimize adverse impacts, including visual impacts, to the shoreline environment.
  - 5) LID BMPs shall be incorporated into new development where feasible, pursuant to the City's adopted Surface Water Design Manual and the most recent edition of the Low Impact Development Technical Guidance Manual for Puget Sound.

- 6) Commercial development and accessory uses must conform to the setback and height standards established in Table II.

## **4. Parking**

### **a) Applicability**

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

### **b) Policies**

- 1) Parking in shoreline areas should be minimized
- 2) Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including impacts related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance, and to result in no loss of ecological functions.
- 3) Parking in shoreline areas should not restrict access to the site by necessary public safety vehicles, utility vehicles, or other vehicles requiring access to shoreline properties.

### **c) Regulations**

- 1) Parking as a primary use is prohibited in shoreline jurisdiction.
- 2) Parking in shoreline areas must directly serve a permitted shoreline use.
- 3) Parking facilities shall provide adequate provisions to control surface water runoff to prevent it from contaminating water bodies.
- 4) Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.
- 5) Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Exterior parking facilities for nonresidential uses shall be landscaped to provide an effective “full-screen” within three (3) years of project completion when viewed from adjacent areas within shoreline jurisdiction.

- 6) New and reconstructed parking areas within the Urban Park shoreline environment designation shall utilize LID BMPs where feasible in accordance with the City's adopted Surface Water Design Manual and the most recent edition of the Low Impact Development Technical Guidance Manual for Puget Sound.

## **5. Recreational Development**

### **a) Applicability**

Recreational uses include passive activities, such as walking, viewing, and fishing. Recreational development also includes facilities for active uses, such as swimming, boating, and other outdoor recreation uses. This section applies to both public and private shoreline recreational facilities (excluding private residences). Commercial shoreline recreational facilities must also meet the requirements for Commercial Development.

### **b) Policies**

- 1) Primary recreational uses in the shoreline jurisdiction should be limited to water-oriented uses. Non-water-oriented recreational facilities may be allowed as an accessory use and in limited circumstances where they do not displace water oriented uses, for example, where visual access is incorporated if feasible and physical access is not possible.
- 2) The coordination of local, state, and federal recreation planning should be encouraged. Shoreline recreational developments should be consistent with the City's Comprehensive Park and Recreation Plan.
- 3) Recreational developments should be designed to preserve, enhance, or create scenic views and vistas.
- 4) The use of publicly owned lands for public access and development of recreational opportunities should be encouraged.
- 5) Priority for land acquisition should be given to open space that provides wildlife habitat and offers opportunities for education and interpretation.
- 6) Shoreline areas with a potential for providing recreation or public access opportunities should be identified and acquired by lease or purchase, or through partnerships with nonprofit and service organizations, and incorporated into the park and open space system.
- 7) Links between existing and future shoreline parks, recreation areas, and public access points should be created with a non-motorized trail system using existing rights-of-way or through acquisition of easements and/or land.

- 8) Recreational activities should be designed to avoid conflict with private property rights, and to minimize and mitigate negative impacts on adjoining property.
- 9) Public access should not contribute to a net loss of shoreline ecological functions.

**c) Regulations**

- 1) All structures associated with a recreational use, except water dependent structures, such as docks and boardwalks and limited water enjoyment structures such as open viewing platforms and benches, shall maintain a standard setback from the OHWM per Table II. However, existing structures may be replaced in their current location and configuration to the extent allowed by the Nonconforming Development provisions of Chapter 6, Section F, and state and federal agencies with jurisdiction. Any further setback reduction shall require approval of a setback reduction pursuant to Table II in this Chapter or a shoreline variance.
- 2) Private and public recreation areas shall protect existing native vegetation in the shoreline area and restore vegetation impacted by development activities. Recreational use and development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.
- 3) Water-dependent or water-related activities such as swimming, boating, and fishing, and activities that benefit from waterfront scenery, such as picnicking, hiking and bicycling, shall be emphasized in planning public and private (excluding residential) noncommercial recreation sites in shoreline areas.
- 4) All recreational developments shall make adequate provisions for:
  - a. Non-motorized and pedestrian access;
  - b. The prevention of trespass onto adjacent properties, including, but not limited to, landscaping and fencing;
  - c. Protection and restoration of environmentally sensitive areas and shoreline processes and functions;
  - d. Signs indicating the publics' right of access to shoreline areas, installed and maintained in conspicuous locations at the point of access and the entrance; and
  - e. Buffering of such development from adjacent private property or natural areas.
- 5) In approving shoreline recreational developments, the City shall ensure that the development will maintain, enhance, or restore desirable shoreline features.

- 6) Swimming areas shall be separated from boat launch areas.
- 7) The construction of swimming facilities, piers, moorages, floats, and launching facilities waterward of the OHWM shall be governed by the regulations relating to overwater structure construction in the Shoreline Modifications Section of this SMP.
- 8) Fragile and unique shoreline areas with valuable ecological functions, such as wildlife habitats, shall be used only for non-intensive recreation activities that do not involve the construction of structures.
- 9) Recreation developments such as golf courses and playfields that require periodic use of fertilizers, pesticides or other chemicals, or that support high-intensity activities as a primary use, such as sporting events, shall be located outside of shoreline jurisdiction.
- 10) Proposals for new or expanded recreational development shall include provisions for public access to the shoreline, subject to the requirements and exemptions contained in Chapter 3, Subsection B(5)(c).

## **6. Residential Development**

### **a) Applicability**

Residential development means construction of one or more buildings or structures, or subdivision of land to provide a place of abode for human beings. Such development includes multi-family and single-family dwellings together with accessory uses and structures normally applicable to residential uses located landward of the OHWM, including, but not limited to, swimming pools, garages, sheds, decks, patios and fences.

Residential development is preferred use under this SMP and is allowed where it can be accommodated without significant shoreline impacts. Residential development is prohibited in the Aquatic environment, and single-family residential development is a conditional use in the Natural, Urban Park, and Conservancy environments. Single-family and multi-family development is further limited by the underlying zoning.

### **b) Policies**

- 1) Residential development should be permitted only where there are adequate provisions for utilities, circulation, and access.
- 2) New development should provide adequate setbacks and natural buffers from the water and ample open space among structures to protect natural features, preserve views and minimize use conflicts.
- 3) The City should provide development incentives, including reduced shoreline setbacks, to encourage the protection, enhancement, and restoration of high functioning buffers and natural or semi-natural shorelines.

- 4) Residential development should be designed to preserve shoreline aesthetic characteristics, views, and minimize physical impacts to shoreline ecological functions.
- 5) Residential development should be designed to preserve existing shoreline vegetation, control erosion, protect water quality, and utilize LID BMPs where feasible.
- 6) The City should encourage the use of joint-use piers and docks in lieu of individual piers and docks for each waterfront lot to protect the ecological functions of the lake.
- 7) The City should encourage the use of alternative paving products for walkways, driveways, and patios, such as pervious pavers, as a mechanism for reducing impervious surfaces and surface water runoff.
- 8) At a minimum, development should achieve no net loss of ecological functions necessary to sustain shoreline natural resources, even for exempt development.

### c) Regulations

- 1) Residential development is a preferred use where it can be accommodated without significant impacts to the shoreline and shall be permitted in shoreline jurisdiction subject to the policies and regulations for the specific shoreline environment designation (see Chapter 4, Table II), underlying zoning regulations, and the general regulations in Chapter 3 of this SMP.
- 2) Structures or other development accessory to residential uses are permitted in shoreline jurisdiction, if allowed under all other applicable standards in this SMP and subject to the provisions of the City's zoning code.
- 3) All additions to residential structures must comply with all standards in this SMP, including required shoreline setbacks established in Chapter 4, Table II.
- 4) Nonconforming residential structures that are repaired, modified, replaced or enlarged are subject to the requirements in Chapter 6, Section F(2) (Administration - Nonconforming Use and Development Standards).
- 5) Accessory uses and appurtenant structures not specifically addressed in the SMP shall be subject to the same regulations as primary residences, including setbacks, with the exception of water-oriented accessory structures that comply with the impervious surface limits identified in Table II of this Chapter. Water-oriented structures allowed in the setback include, but are not limited to, boathouses, gazebos, viewing platforms and decks.
- 6) In order to maintain visual access to the waterfront, all fences except those located next to creeks shall be set back a minimum of fifteen (15) feet from eth OHWM. Fences located next to creeks must be placed above the creek's flood limit level.  
(15) feet from the OHWM.

- 7) To protect views and vistas maximum height limits have been established for each shoreline environment designation as indicated in Chapter 4, Table II.
- 8) The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to infiltration systems and other LID BMPs shall be incorporated into new development where feasible, in accordance with the City's adopted Surface Water Design Manual and the most recent edition of the Low Impact Development Technical Guidance Manual for Puget Sound.
- 9) LID stormwater facilities, such as swales and infiltration areas, may be located within the required shoreline setback area at the discretion of the Shoreline Administrator if no mature trees are removed.
- 10) Residential development, including land subdivision, shall result in no net loss of shoreline ecological functions. This includes meeting the no net loss standard at full build out of a subdivision or other development. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.
- 11) For the purposes of this section and WAC 173-27-040(2)(g), the following shall be considered a "normal appurtenance" to a single-family residence. Not all normal appurtenances are considered water oriented:
  - a. Garages
  - b. Decks
  - c. Driveways and parking areas
  - d. Utilities
  - e. Fences
  - f. Landscaping
  - g. Pathways, walkways and stairways
  - h. Swimming pool and spa
  - i. Flagpole
  - j. Shed up to two hundred (200) square feet
  - k. Children's play equipment



- l. Fire Pit
- m. Sports court
- n. Installation of a septic tank, drain field and grading which does not exceed two hundred fifty (250) cubic yards and which does not involve the placement of fill in any wetland or waterward of the OHWM (when permitted by Tacoma Pierce County Health Department, Pierce County Sewer Utility, and City policies and regulations).

## 7. Signs See LMC Chapter 18A.100

### ~~a) Applicability~~

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

### ~~b) Policies~~

- ~~1) Signs should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.~~
- ~~2) Signs should not block or otherwise interfere with visual access to the water or shorelines.~~

### ~~e)a) Regulations~~

- ~~1) Signs shall comply with the City's sign regulations found in LMC Section 18A.50.600 Sign Regulations in addition to the sign regulations in the SMP.~~
- ~~2) Sign plans and designs shall be submitted for review and approval at the time of shoreline permit approval.~~
- ~~3) All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.~~
- ~~4) Temporary signs shall be removed subject to the requirements of LMC Section 18A.50.665 Signs for Temporary Display. Examples of temporary signs can include real estate signs, directions to events, political advertisements, event or holiday signs, and construction signs.~~

~~5) Signs that do not meet the policies and regulations of this program shall be removed or required to conform within two (2) years of the SMP's effective date.~~

~~6)1) The following types of signs may be allowed in all shoreline environment designations:~~

- ~~a. Water navigational signs and highway signs necessary for operation, safety, and direction.~~
- ~~b. Public information signs directly relating to a shoreline use or activity.~~
- ~~c. Off-premise, freestanding signs for community identification, information, or directional purposes.~~
- ~~d. Site and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.~~

~~7) The following signs are prohibited:~~

- ~~a. Off-premises freestanding outdoor advertising signs and billboards.~~
- ~~b. Spinners, streamers, pennants, flashing lights, and other animated signs used for commercial purposes.~~
- ~~c. Signs placed on trees or other natural features.~~
- ~~d. Commercial signs for products, services, or facilities located off site.~~

## 8. Trails

### a) Applicability

Trails serve as both recreational facilities and transportation facilities. Trails are classified into two types: minor trails and major trails. Major trails are paved and they allow for simultaneous use by both pedestrians and bicycles. Major trails also frequently provide connections between local points of interest and a larger regional access network. Due to their use of pavement and the necessity of complying with ADA design requirements, major trails are generally not appropriate for locations with steep terrain or environmentally sensitive areas. Minor trails, on the other hand, are designed for local access and usually have less improved right-of-way than major trails. Minor trails are typically unpaved and surfaced with either gravel or bare dirt, although they may have sections where pervious pavement is used. Due to their narrow right-of-way, minor trails usually do not support simultaneous use by pedestrians and bicycles.

**b) Policies**

- 1) Normal operation and normal maintenance and repair of all trails in shoreline jurisdiction should be exempt from the Substantial Development Permit requirements, subject to the specific provisions identified in Chapter 6 Section C(1).
- 2) Trail location, design, and construction should adhere to mitigation sequencing and no net loss requirements.

**c) Regulations**

- 1) Unless approved as a major trail, trails shall be no greater than ten (10) feet in total improved width, which includes eight (8) feet of surface and one (1) foot shoulders. Not including landscaping, no more than eight (8) feet of improved surface is preferable in most cases.
- 2) Major trails shall be the minimum width necessary to accommodate the proposed use safely and in no case shall they be more than eighteen (18) feet in total improved width, which includes fourteen (14) feet of surfaced trail and two (2) foot shoulders.
- 3) Gravel, woodchips, or pervious pavement shall be used for public access within the shoreline management area unless the Shoreline Administrator determines that such use is not in the public interest because of safety, durability, aesthetic, or functionality concerns.
- 4) Trails shall be placed at least twenty-five (25) feet from the OHWM, except for bridges, limited spurs to physical access points and overlooks comprising no more than ten percent (10%) of the overall lineal length of the proposed trail. The Shoreline Administrator shall use the variance process and criteria for evaluating a proposed reduction in the twenty-five (25) foot setback for trails parallel to the water, which exceed ten percent (10%) of the total linear length of the proposed trail.
- 5) Landscaping shall be native and drought tolerant or site appropriate.
- 6) Enhancement of shoreline functions, including native plantings, shall be incorporated into trail designs as mitigation for development impacts where necessary and where a clear benefit can be demonstrated.
- 7) Trails shall be subject to other specific conditions as described in the applicable trail or parks plan.

## **9. Transportation Facilities**

### **a) Applicability**

Transportation facilities are those structures and developments that aid in land, air, and water surface movement of people, goods, and services. They include roads and highways, bridges, heliports, and other related facilities.

In the City, transportation facilities account for a limited percentage of the shoreline land inventory. However, the impact of these facilities on shorelines can be substantial.

### **b) Policies**

- 1) Normal operation, and normal maintenance and repair of all transportation facilities in the shoreline jurisdiction should be exempt from Substantial Development Permit requirements, subject to the specific provisions identified in Chapter 6 Section C(1).
- 2) New road construction in the shoreline jurisdiction should be minimized, and such construction outside of the Shoreline Residential environment should be allowed by conditional use only when related to and necessary for the support of permitted shoreline activities.
- 3) Expansion of existing roadways in the shoreline jurisdiction should be allowed if such facilities are found to be in the public interest, as determined jointly by the City Engineer and Shoreline Administrator.
- 4) Joint use of transportation corridors within the shoreline jurisdiction for roads, utilities, and motorized and non-motorized forms of transportation should be encouraged.

### **c) Regulations**

- 1) New road construction in shoreline jurisdiction shall be minimized and allowed only when related to, and necessary for, the support of permitted shoreline activities or found to be within the public interest.
- 2) New stream crossings associated with transportation uses shall be avoided if possible and minimized in number and total area impacts (e.g. perpendicular crossings). Culverts and bridges shall be designed to allow passage of adult and juvenile salmon pursuant to DFW Fish Passage Guidelines and accommodate the flow of water, sediment, and woody debris during the 100-year return storm event. Bridge abutments shall be located outside of floodplains and CMZs if feasible.

- 3) Transportation facility development shall result in no net loss of shoreline ecological functions and shall not affect existing or planned water dependent uses. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
- 4) New roads and expansion of existing roadways within the shoreline jurisdiction shall be allowed only when the proponent demonstrates that:
  - a. No alternative route is feasible; and
  - b. The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment.
- 5) Transportation and primary utility facilities shall be required to make joint use of rights of- way, and to consolidate crossings of water bodies to minimize adverse impacts to the shoreline.
- 6) Developers of roads must be able to demonstrate that efforts have been made to coordinate with existing land use plans including the SMP and the City's Comprehensive Plan.
- 7) All debris and other waste materials from roadway construction shall be disposed of in such a way as to prevent their entry into any water body.
- 8) Road designs must provide safe pedestrian and non-motorized vehicular crossings where public access to shorelines is intended.
- 9) Streets within shoreline jurisdiction shall be designed with the minimum pavement area required. Gravel and more innovative materials shall be used where feasible for pathways and road shoulders to minimize the amount of impermeable surfaces and help to maintain a more natural appearance.
- 10) The City shall give preference to mechanical means for roadside brush control on roads in shoreline jurisdiction rather than the use of herbicides.

## 10. Utilities (Primary)

### a) Applicability

Utilities are services and facilities that produce, transmit, store, process, or dispose of electric power, gas, water, sewage, communications and the like. Utilities in this SMP are divided into primary and secondary based on type and scale. The provisions of this section apply to primary utility uses and activities such as solid waste handling and disposal, regional water transmission lines and storage facilities, sewage treatment facilities and interceptors, water or sewer pump stations, power generating or high voltage transmission facilities, gas pipelines and storage facilities and regional stormwater treatment facilities.

## **b) Policies**

- 1) New primary utilities should be located outside of shoreline jurisdiction unless they are water oriented, no other feasible option exists, and should utilize existing transportation and utility sites, rights-of-way and corridors where allowed, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.
- 2) Solid waste disposal activities and facilities should be prohibited in shoreline areas.
- 3) Primary utilities should avoid locating in environmentally sensitive areas unless no feasible alternatives exist.
- 4) Primary utility facilities and corridors should be located to protect scenic views if they must be placed in a shoreline area, preferably underground or designed to minimize impacts on the aesthetic qualities of the shoreline area if possible.

## **c) Regulations**

- 1) Primary utilities shall be located outside of SMA jurisdiction unless no other feasible option exists.
- 2) Primary utilities shall be located landward of OHWM unless such location is not feasible or would result in potentially greater environmental impacts.
- 3) Primary utility facilities shall avoid disturbance of unique and fragile areas, as well as wildlife spawning, nesting and rearing areas. Utility facility design, location, development, and maintenance shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
- 4) Through coordination with local government agencies, utility development shall provide for compatible, multiple uses of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety, or create a significant and disproportionate liability for the owner.
- 5) Utility lines shall utilize existing rights-of-way, corridors, and/or bridge crossings whenever possible and shall avoid duplication and construction of new corridors in all shoreline areas. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.
- 6) Solid waste disposal sites and facilities are prohibited in all shoreline environment designations.
- 7) Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views.

- 8) To the greatest extent feasible, primary utility development shall provide screening of facilities from water bodies and adjacent properties. Screening, including landscaping and fencing, shall be designed to constitute a dense “full screen,” where feasible.
- 9) Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and, upon project completion; any disturbed areas shall be restored to their pre-project condition.
- 10) The City shall hold public meetings prior to the issuance of a substantial development permit for a major primary utility project in accordance with the administrative procedures outlined in this SMP to allow for the greatest amount of public input to help guide utility-related decisions.

## **11. Utilities (Secondary)**

### **a) Applicability**

Secondary utilities are typically distribution services connected directly to the uses along the shoreline. For example, power distribution, telephone, cable, water mains and distribution lines, sewer collectors and side sewer stubs, stormwater collection and conveyance, are all considered as utilities accessory to shoreline uses. They are covered in this section because they concern all types of development and have the potential of affecting the ecological condition and visual quality of the shoreline and its waters. On-site accessory utilities that only serve the permitted shoreline use (e.g. sewer connection) are considered part of the primary use. The Shoreline Administrator shall have the authority to determine when a facility is a Primary or Secondary Utility based on the guidance provided in the SMP.

### **b) Policies**

- 1) Utilities necessary to serve shoreline uses should be properly sited and installed to protect the shoreline and water from contamination and degradation.
- 2) Secondary utility facilities and right-of-ways should be located outside of the shoreline area to the extent possible. Utility lines should be placed underground if possible when a shoreline location is required.
- 3) Utility facilities should be designed and located in a manner, which preserves the natural landscape and shoreline ecology, and minimizes conflicts with present and planned land uses.

### **c) Regulations**

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

- 2) In shoreline areas, secondary utilities shall be placed underground unless demonstrated to be infeasible. Further, such lines shall utilize existing rights-of-way and existing corridors whenever possible.
- 3) Utility facilities shall be located and designed to avoid destruction of, or damage to, important wildlife areas, and other unique and fragile areas. Utility facility development shall result in no net loss of shoreline ecological functions. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial.
- 4) Clearing for the installation or maintenance of utilities shall be kept to a minimum, and upon project completion, any disturbed area shall be restored, to the greatest extent feasible, to pre-project conditions, including replanting with native species, or other species as approved by the Shoreline Administrator, and maintenance care. If the previous condition is identified as being undesirable for shoreline function, then landscaping and other improvements shall be undertaken.
- 5) The location and construction of outfalls shall comply with all appropriate federal, state, county and city regulations.
- 6) The City shall maintain, enhance, and restore public natural drainage systems in accordance with all applicable policies and regulations to protect water quality, reduce flooding, reduce public costs, and prevent associated environmental degradation for a no net loss of shoreline ecological functions.
- 7) New utility lines including electricity, communications, and fuel lines shall be located underground, where feasible. Existing above ground lines shall be moved underground when properties are redeveloped or in conjunction with major system upgrades or replacements where feasible.
- 8) Utility development shall include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with utility operations, endanger the public health, safety, and welfare, or create a significant and disproportionate liability for the owner.
- 9) Proposals for new utility corridors shall demonstrate the infeasibility of existing routes.



*This page intentionally left blank*

# Chapter 5 Shoreline Modification Provisions

## A. Introduction and Applicability

Shoreline modifications are those structures and actions that modify the physical configuration or qualities of the shoreline area, particularly at the point where land and water meet. Shoreline modifications include, but are not limited to, structures such as bulkheads, docks, piers, and floats, and actions such as clearing, grading and dredging. Shoreline modifications are, by definition, undertaken in support of or in preparation for a permitted shoreline use. A single use may require several different shoreline modifications.

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

This chapter has been divided into four sections: Shoreline Stabilization, Dredging and Disposal, Fill, and Overwater Structures and Launching Facilities.

## B. Table of Permitted Shoreline Modifications

The shoreline modification table below determines whether a specific shoreline modification is allowed within each of the shoreline environment designations. See the standards following the table for a full explanation of structures and actions and required conditions.

**Table IV. Permitted Shoreline Modifications**

	Shoreline Residential	Urban - Stream Protection	Urban Park	Conservancy	Natural	Aquatic	
<p>P = Permitted Use                      C = May be Permitted as a Conditional Use                      X = Prohibited, Not Eligible for a Variance or CUP                      N/A = Not Applicable</p>							
<b>SHORELINE MODIFICATIONS</b>							
<b>SHORELINE STABILIZATION</b>							
Beach Restoration and Enhancement	P	X	P	X	C	See adjacent upland shoreline environment designation	
Soil Bio-engineering	P	P	P	P	P		
Structural Stabilization	P	X	C	X	X		
Breakwaters, Jetties, and Groins	X	X	X	X	X		
Clearing and Grading	P	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	C <sup>1</sup>		
Dredging and Disposal	X	X	X	X	X		
Dredging <sup>2</sup>	C	C	C	C	C		
<b>FILL</b>							
Fill Upland of OHWM	P	P <sup>1</sup>	P <sup>1</sup>	C <sup>1</sup>	X		
Fill Waterward of OHWM <sup>2</sup>	C	C	C	X	C		
<b>OVERWATER AND IN-WATER STRUCTURES<sup>4</sup></b>							
Recreational Float	P	X	P	X	X		
Overwater Boathouse <sup>3</sup>	X	X	X	X	X		
Single / Joint Pier and Dock	P	X	P	X	X		
Moorage Piles and Mooring Buoys	P	X	P	X	X		
Private Community Dock	P	X	P	X	X		
Public Pier/Dock	C	X	P	X	X		
Boat Launch	C	X	C	X	X		
Launching Rails	C	X	X	X	X		
Boat Lifts	P	X	X	X	X		
Boat Lift Canopies	P	X	X	X	X		
Moorage Covers (Open Sides, Structural Roof)	C	X	X	X	X		
In-Stream Structures (e.g. Dams and Weirs)	C	C	C	C	C		

<sup>1</sup> The critical area provisions of LMC Title 14A as incorporated into this SMP shall apply within designated critical areas and buffers (such as streams and wetlands). Critical area requirements may further restrict this activity and other development activities in portions of the shoreline management area. Please see LMC Title 14A and Chapter 3, Section (B)(3) for more information.

<sup>2</sup> Dredging and fill waterward of the OHWM occur in the Aquatic shoreline environment designation by definition, but are regulated based on the adjacent upland shoreline environment designation. In the shoreline environment designations where they are allowed, fill waterward of the OHWM and dredging are only permitted in limited situations. See Chapter 5, Section C(3) and (4) for additional restrictions and requirements. Small scale beach restoration utilizing up to or less than twenty-five (25) cubic yards of material is permitted waterward of the OHWM without a CUP. See Chapter 5, Section C(4)(c)(2).

<sup>3</sup> Boathouses landward of the OHWM no greater than twelve (12) feet in height are allowed in shoreline setbacks subject to impervious surface limits and other restrictions in this SMP.

<sup>4</sup> See permit requirements and exemptions per Section C.5 (b) of Chapter 5 and Chapter 6.

## **C. Policies and Regulations**

### **1. General Policies and Regulations**

#### **a) Applicability**

The following provisions apply to all shoreline modifications whether such proposal addresses a single property or multiple properties. Additional requirements as contained in other Chapters of this SMP apply. Where a general standard, environmental standard or use standard conflicts with the provisions contained in this chapter, the more restrictive shall apply.

#### **b) Policies**

- 1) The adverse effects of shoreline modifications should be reduced, as much as possible, and shoreline modifications should be limited in number and extent.
- 2) The Shoreline Administrator should take steps to assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological function by preventing unnecessary shoreline modifications by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions, and by requiring mitigation of identified impacts resulting from shoreline modifications.

#### **c) Regulations**

- 1) All shoreline modifications must be in support of an authorized shoreline use or provide for human health and safety.
- 2) All shoreline development shall be located and designed to prevent or minimize the need for shoreline modifications.
- 3) In reviewing shoreline modification permits, the Shoreline Administrator shall require steps to avoid then reduce significant ecological impacts according to the mitigation sequence in Chapter 3, Section B.4.C.3.
- 4) The Shoreline Administrator shall base all shoreline modification decisions on available scientific and technical information and a comprehensive analysis of site-specific conditions provided by the applicant, as stated in WAC 173-26-231.

## 2. Shoreline Stabilization (Including Bulkheads)

### a) Applicability

Shoreline stabilization includes structures and actions taken to address erosion impacts caused by natural processes, such as currents, floods, and waves. Examples of stabilization methods include beach restoration and enhancement, soil bioengineering, and bulkheads. "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete or boulder bulkheads, while "soft" structural measures rely on less rigid materials, such as anchored logs, limited rock placement in conjunction with other components, bioengineered vegetation measures, and beach enhancement. Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, and planning and regulatory measures.

Generally, the harder the construction measure, the greater the impact on shoreline processes, such as sediment transport, geomorphology, and biological functions. The means taken to reduce damage caused by erosion, accretion, and flooding must recognize and promote the benefits of these natural occurrences. Erosion does not occur without accretion (deposition and accumulation) of material eroded, such as formation of a beach or a sandbar. Likewise, accretion cannot occur unless material has been eroded.

A key regulatory distinction in this SMP is made between new stabilization measures and the replacement of existing stabilization measures. New stabilization measures include the enlargement of existing structures. Some of these techniques are currently being used in City as described below, or they are techniques that could be used to address local shoreline issues.

General policies and regulations addressing shoreline stabilization methods are presented below, followed by discussion, polices and regulations of the individual stabilization methods.

#### Beach Restoration or Enhancement

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

#### Soil Bioengineering

Soil bioengineering is the practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of root systems, or other living plant material; fabric; and limited rock toe protection, where appropriate. Soil bioengineering projects often include fisheries habitat enhancement

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

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

### Bulkheads

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

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

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

### Groins

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

## **b) Policies**

- 1) Shoreline stabilization should be located, designed, and maintained to protect and maintain shoreline ecological functions, ongoing shoreline processes, and the integrity of shoreline features. Ongoing stream or lake processes and the probable effects of proposed shoreline stabilization on other properties and shoreline features should be considered. Shoreline stabilization should not be developed for the purpose of filling shorelines.
- 2) Hard structural shoreline stabilization measures should only be used when softer, more natural, flexible, or non-structural methods such as placing the development farther from the OHWM, planting vegetation, or installing on-site drainage improvements, beach nourishment and bioengineering have been determined infeasible. Alternatives for shoreline stabilization should be based on the following hierarchy of preference:

- a. No action (allow the shoreline to retreat naturally), increase buffers, and relocate structures.
  - b. Flexible defense works constructed of natural materials including soft shore protection, bioengineering, including beach nourishment, protective berms, or vegetative stabilization.
  - c. Rigid works constructed of artificial materials such as riprap or concrete.
- 3) Structures should be located and designed to avoid the need for future shoreline stabilization where feasible. Land subdivisions should be designed to assure that future development would not require shore stabilization.
  - 4) New or expanded structural shoreline stabilization should only be permitted where necessary to protect an existing primary structure or a legally existing shoreline use that is in danger of loss or substantial damage, and where it would not cause a net loss of shoreline ecological functions and processes.
  - 5) New or expanded structural shoreline stabilization for enhancement, restoration, or hazardous substance remediation projects should only be allowed when non-structural measures, vegetation planting, or on-site drainage improvements would be insufficient to achieve enhancement, restoration, or remediation objectives.
  - 6) Shoreline stabilization should not be permitted when it interferes with public access, or other appropriate shoreline uses including, but not limited to, navigation or private recreation.
  - 7) Non-regulatory methods to protect, enhance, and restore shoreline ecological functions and other shoreline resources should be encouraged for shore stabilization. Non-regulatory methods may include public facility and resource planning, technical assistance, education, voluntary enhancement and restoration projects, or other incentive programs.
  - 8) Provisions for multiple use, restoration, and/or public shore access should be incorporated into the location, design, and maintenance of shore stabilization for public or quasi-public developments whenever safely compatible with the primary purpose. Shore stabilization on publicly owned shorelines should not be allowed to decrease long-term public use of the shoreline.
  - 9) Materials used for construction of shoreline stabilization should be selected for long-term durability, ease of maintenance, compatibility with local shoreline features including aesthetic values, and flexibility for future uses.
  - 10) New development that would require shoreline stabilization, which causes significant impacts to adjacent properties, should not be allowed.

- 11) Explore a range of solutions to reduce the amount of bulkheads and hard shoreline armoring over time around American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, and Waughop Lake and restore natural bank conditions. Alternative methods to typical shoreline armoring using native vegetation and other natural shoreline features should be the preferred method where feasible.

## **c) Regulations**

### Shoreline Stabilization - General Requirements

- 1) The standards in this section apply to all developments and uses in shoreline jurisdiction.
- 2) Except as otherwise provided in these regulations, structural shoreline stabilization to protect primary structures from damage from erosion shall be allowed only after it is demonstrated through a geotechnical report that non-structural solutions would not provide sufficient protection to existing structures. If structural stabilization is necessary to protect structures, then the feasibility of soft structural measures shall be evaluated prior to consideration of hard structural measures. Soft structural stabilization measures shall be used unless the Shoreline Administrator determines that it is not feasible based on the geotechnical report required in this section and provided by the applicant.
- 3) The geotechnical report shall evaluate the necessity of structural stabilization measures by estimating timeframes and rates of erosion, urgency, alternative solutions, and other pertinent factors. Hard armoring shall not be authorized except where the geotechnical report confirms that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such measures or where waiting until the need is that immediate would foreclose the opportunity to use measures that would avoid impacts on ecological functions. Where a geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three (3) years, soft structural stabilization measures may be authorized.
- 4) Soft shoreline stabilization may include the use of gravels, cobbles, limited use of boulders in conjunction with other measures, and logs, as well as vegetation.
- 5) During construction or repair work on a shoreline stabilization measure, areas of temporary disturbance within the shoreline setback shall be restored as quickly as feasible to their pre-disturbance condition or better to avoid impacts to the ecological function of the shoreline.

### Shoreline Stabilization - New Development

- 1) New development, including land subdivision, shall, to the extent feasible, be located and designed to eliminate the need for concurrent or future shoreline stabilization and ensure no net loss of ecological function at full build-out. A geotechnical analysis of the site and shoreline characteristics shall be required to assure that lots created through subdivision will not require shoreline stabilization



in order for reasonable development to occur. New non-water dependent development that would require shoreline stabilization and cause significant adverse impacts to adjacent or down-current properties is prohibited.

- 2) New development, including single-family residences, that requires new structural shoreline stabilization shall be prohibited unless all of the conditions below are met:
  - a. The need to protect the development from damage due to erosion caused by natural processes, such as currents and waves is demonstrated through a geotechnical report;
  - b. The erosion is not being caused by upland conditions, such as loss of vegetation and drainage;
  - c. Non-structural measures, such as placing the development farther from the shoreline, planting vegetation, LID BMPs, or installing on-site drainage improvements, are not feasible or not sufficient; and
  - d. The stabilization structure will not result in a net loss of shoreline ecological functions.
- 3) New development on steep or unstable slopes shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis prepared by a geotechnical engineer or related professional licensed and in good standing in the State of Washington.

#### Shoreline Stabilization - New or Expanded Measures

- 1) New structural stabilization measures and enlargement of existing structural stabilization measures shall be limited to the minimum size necessary and shall be permitted only when it has been conclusively demonstrated through scientific analysis that shoreline stabilization is necessary to protect existing primary structures, public improvements, ecological function restoration projects or hazardous substance remediation projects from erosion, and that nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not sufficient.

#### Shoreline Stabilization - Replacement and Repair

- 1) An existing shoreline stabilization structure shall not be replaced with a similar structure unless there is a demonstrated need to protect legally established principal uses or existing structures from erosion caused by currents or waves and a nonstructural measure is not feasible.
- 2) Shoreline stabilization solutions developed to replace existing shoreline stabilization shall be placed along the same alignment as, or landward of, the shoreline stabilization being replaced, except as noted below.

- 3) Where existing hard structural stabilization is replaced by soft structural or non-structural shoreline stabilization using bioengineering techniques and results in a documented improvement of shoreline functions, such stabilization may be allowed waterward of the OHWM subject to state and federal approvals. Such stabilization does not constitute fill for the purpose of this SMP.
- 4) A major repair or replacement of a hard shoreline stabilization structure shall be allowed without a demonstration of need when the existing primary structure is ten (10) feet or less from the OHWM. All other major repair proposals must include a written narrative prepared by a qualified geotechnical engineer that provides a demonstration of need. A major repair shall be defined as:
  - a. A repair needed to a portion of an existing stabilization structure that has collapsed, eroded away, or otherwise demonstrated loss of structural integrity, or in which the repair work involves modification of the toe rock or footing, and the repair is fifty percent (50%) or greater than the linear length of the shoreline stabilization measure; or
  - b. A repair to more than seventy-five percent (75%) of the linear length of the existing hard structural stabilization measure in which the repair work involves replacement of top or middle course rocks or other similar repair activities.
- 5) Minor repairs are repairs that do not meet the threshold established in regulation 4 above. Such repairs shall be allowed without a demonstration of need.

#### General Shoreline Stabilization - Design Requirements

- 1) Shoreline stabilization and modification projects shall avoid adverse impacts to the environment to the greatest extent feasible, and where such impacts cannot be avoided, mitigation shall be provided to achieve no net loss of shoreline ecological functions.
- 2) Shoreline stabilization shall not be used to create new or newly usable land.
- 3) Shoreline stabilization shall not significantly interfere with normal surface and/or subsurface drainage into the water body.
- 4) Shoreline stabilization shall be designed so as not to constitute a hazard to navigation and not interfere with visual access to the water substantially.
- 5) Shoreline stabilization shall be designed so as not to not cause a significant impact to adjacent properties, including the need for shoreline stabilization elsewhere.
- 6) Professional design (as approved by the Shoreline Administrator) of all shoreline stabilization is required. All shoreline modifications shall be in support of a permitted shoreline use that is in

conformance with the provisions of this SMP unless it can be demonstrated that such activities are necessary and in the public interest.

- 7) All shoreline modification activities must comply with all other regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction.
- 8) Alternative methods to typical shoreline armoring using native vegetation and other natural shoreline features shall be considered when replacing existing and constructing new shoreline stabilization solutions.
- 9) Public access shall be required as part of publicly financed shoreline stabilization measures unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and immitigable significant ecological impacts, unavoidable conflict with proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.

#### Beach Restoration or Enhancement

- 1) Beach enhancement along American Lake, Gravelly Lake, Lake Louise and Lake Steilacoom may be permitted when the applicant has demonstrated that the project will not detrimentally interrupt littoral processes, redirect waves, current, or sediment to other shorelines, or adversely affect adjacent properties or habitat and all other standards of the SMP are followed.
- 2) Beach enhancement for the purpose of shoreline stabilization is limited to the minimum necessary. Proposals exceeding the threshold outlined in Section 4(c)(2) shall be subject to the requirements for shoreline fill in that section.
- 3) Natural beach restoration/enhancement activities shall not:
  - a. Extend waterward more than the minimum amount necessary to achieve the desired stabilization;
  - b. Disturb significant amounts of valuable shallow water fish/wildlife habitat without appropriate mitigation of the impacts.
- 4) The size and/or mix of new materials to be added to a beach shall be as similar as possible to that of the natural beach sediment, but large enough to resist normal current, wake, or wave action at the site.
- 5) The restored beach shall approximate, and may slightly exceed, the natural beach width, height, bulk or profile (but not as much as to create additional dry land).

- 6) Beach enhancement is prohibited within fish and/or wildlife spawning, nesting, or breeding habitat that would be adversely affected by it, as well as where littoral drift of the enhancement materials would adversely affect adjacent spawning grounds or other areas of biological significance.

#### Soil Bioengineering

- 1) All soil bioengineering projects shall use native plant materials appropriate to the specific area including trees, shrubs, and groundcovers, unless demonstrated infeasible for the particular site.
- 2) Except where more restrictive or specific Critical Area and Resource Lands Regulations apply, all cleared areas shall be replanted immediately following construction and irrigated (if necessary) to ensure that within three (3) years all vegetation is one hundred percent (100%) reestablished to achieve no net loss of ecological functions of the shoreline area. Areas that fail to reestablish vegetation adequately shall be replanted by the applicant with approved plant materials until the plantings are viable. The Shoreline Administrator may establish additional performance standards in permit conditions based on the project site and nature of the proposal.
- 3) Any bioengineered bank stabilization and replanted areas as required by Regulation 2 above shall be maintained in the form of a buffer zone for a minimum of three (3) years. The buffer zone shall exclude activities that could disturb the site. Where determined necessary by the Shoreline Administrator, fencing may be required to ensure protection of plantings.
- 4) All construction and planting activities shall be scheduled to minimize impacts to water quality and fish and wildlife aquatic and upland habitat, and to optimize survival of new vegetation.

#### Breakwaters

- 1) Breakwaters, jetties, and groins shall not be permitted.

#### Bulkheads

- 1) Bulkhead design and development shall conform to all other applicable local, state, and federal agency regulations.
- 2) On shorelines where no other adjacent bulkheads, the bulkhead construction shall tie in with the contours of the adjoining shorelines, as feasible, to avoid causing erosion of the adjoining properties.
- 3) Bulkheads may tie in flush with existing bulkheads on adjoining properties, provided that the new bulkhead does not extend waterward of OHWM, except that which is necessary to make the connection to the adjoining bulkhead. In such circumstances, the remaining portion of the bulkhead shall be placed landward of the existing OHWM such that no net loss of lake occurs and the design

complies with all other regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction.

- 4) Replacement bulkheads shall not encroach waterward of the OHWM or existing structure unless the residence was occupied prior to January 1, 1992, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing stabilization structure.
- 5) When a bulkhead is required at a public access site, provisions for safe access to the water shall be incorporated into bulkhead design.
- 6) Stairs or other permitted structures may be built into a bulkhead, but shall not extend waterward of a bulkhead.
- 7) Fill behind bulkheads shall be limited to an average of one (1) cubic yard per linear foot of bulkhead. Any filling in excess of this amount shall be subject to the policies and regulations in this SMP pertaining to fill activities.

### **3. Dredging and Disposal**

#### **a) 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, or lake and associated shorelines, side channels, and wetlands. In a lake setting, dredging is normally done for specific purposes or uses such as deepening a navigational channel or obtaining bottom material.

Dredge material is disposed of on land or into water bodies and may be intended for the purpose of creating new or additional lands for other uses. Dredge spoil varies from clean river sand to organic sludge. While some of this material is deposited on land, a significant portion is dumped, intentionally or unintentionally, back into the water or immediately adjacent to the water.

Of all activities on shorelines, dredging poses one of the greatest threats to water quality and aquatic life. In most cases, dredging occurs in shallow areas and may disturb the aquatic environment by temporarily reducing water clarity from suspended sediments, causing aquatic plant and animal loss by direct removal or from the sedimentation of suspended materials, altering the nutrient and oxygen levels of the water column, and suspending toxic materials from the sediments into the water column.

#### **b) Policies**

- 1) In all cases, dredging operations should be planned and conducted to protect and maintain existing aquatic habitat and other shoreline uses, properties, and values. Proposals that include dredging should provide mitigation to achieve no net loss of shoreline ecological functions.

- 2) When allowed, dredging and dredge material disposal should be limited to the minimum amount necessary.
- 3) Dredging waterward of the OHWM for the primary purpose of obtaining fill should not be allowed, except as part of a restoration or environmental cleanup project.
- 4) The City may impose limitations on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.
- 5) Dredging or excavation of gravel for the purposes of flood management should be consistent with adopted flood hazard reduction plans and should result in no net loss of ecological function.

**c) Regulations**

- 1) Dredging and disposal of dredge material shall avoid and minimize significant ecological impact; impacts that cannot be avoided shall be mitigated to achieve no net loss of ecological processes and functions.
- 2) New development siting and design shall avoid the need for new and maintenance dredging.
- 3) Dredging may be permitted as a conditional use activity only:
  - a. When necessary to support a water-dependent use; or
  - b. For expansion or alteration of public utility facilities; or
  - c. As part of mitigation actions, environmental restoration, a comprehensive flood control program or habitat enhancement projects.
- 4) In all cases where dredging is allowed, dredging may be permitted as a conditional use:
  - a. When technical information demonstrates water circulation, littoral drift, aquatic life and water quality will not be substantially impaired; and
  - b. When other solutions would result in greater environmental impact; and
  - c. When applicable permits of other local, state, federal have been obtained.
- 5) Maintenance dredging associated with a water dependent use shall be restricted to maintaining the previously dredged and/or existing authorized location, depth, and width.
- 6) Dredging for the primary purpose of obtaining fill or construction material is prohibited, except for projects associated with MTCA or CERCLA habitat restoration, or any other significant restoration

effort approved by a shoreline CUP. When dredging is allowed for fill materials, placement of fill must be waterward of the OHWM.

- 7) Proposals for dredging and dredge disposal shall include details on all feasible mitigation measures to protect aquatic habitats. Dredging and dredge disposal shall not create a net loss of shoreline ecological functions.
- 8) Dredging material, which will not subsequently cause violation of state Water Quality Standards, may be used in permitted landfill projects.
- 9) Excavation on beaches below the OHWM in lands covered by water constitutes dredging and shall include precautions to prevent the migration of fine grain sediments, disturbed by the excavation, onto adjacent beach areas. Excavations on beaches shall be backfilled promptly using material of similar composition and similar or coarser grain size.
- 10) Dredging shall be timed so that it does not interfere with aquatic life.
- 11) Depositing dredge materials in all water areas shall be prohibited, except where authorized in Regulation 6 above.
- 12) Disposal of dredged material on shorelands or wetlands within a CMZ shall be prohibited.
- 13) Dredging shall utilize techniques (such as hydraulic dredging instead of agitation dredging) that cause minimal dispersal and broadcast of bottom material.
- 14) Limitations may be imposed on dredging activities, such as limited operating hours, time periods, and requirements for buffer strips at the site.
- 15) Dredging or excavation of gravel for the flood management shall be consistent with an adopted flood hazard reduction plan per the requirements of WAC 173-26-221(3)(c). Such dredging or excavation shall only be approved after a biological study demonstrates that the project would have a long-term benefit to flood hazard reduction, is part of a comprehensive flood management solution, and would not result in a net loss of ecological function.

## **4. Fill**

### **a) Applicability**

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

Fill is usually considered in locations where the water is shallow and rooted vegetation often occurs. In their natural condition, these areas provide valuable habitat for fish and wildlife feeding, breeding, and shelter. Biologically, these areas tend to be highly productive portions of the lake. For these reasons, governmental agencies and scientific experts have generally sought to prohibit or restrict fill.

## **b) Policies**

- 1) Shoreline fill waterward of the OHWM should be permitted as a conditional use in all shoreline environment designations, and only when tied to a specific development proposal that is permitted by the SMP.
- 2) Where permitted, fill coverage should be the minimum necessary to provide for the proposed use.
- 3) In evaluating fill projects, factors such as current and potential public use of the shoreline and water surface area, water flow and drainage, water quality and habitat should be considered and protected to the maximum extent feasible. Further, the City should assess the overall value of the fill site in its present state versus the proposed shoreline use to be created to ensure consistency with the SMA and this SMP.
- 4) Fills waterward of the OHWM should be restricted to the minimum necessary to support water-dependent uses, public access, cleanup and disposal of contaminated sediments as part of an interagency clean-up plan, disposal of dredged sediments in accordance with the Washington State Department of Natural Resources (DNR) rules, expansion or alteration of transportation facilities of statewide significance when no other alternatives are feasible, and for mitigation actions, environmental restoration and enhancement projects, and only when other solutions would result in greater environmental impact.
- 5) Shoreline fills should be designed and located so that there will be no net loss of existing ecological systems or natural resources, and no alteration of local currents, surface and subsurface drainage, or flood waters which would result in hazard to adjacent life, property, or natural resource systems.
- 6) The fill perimeter should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time. Natural appearing and self-sustaining control methods are preferred over structural methods.

## **c) Regulations**

- 1) Fill proposals must demonstrate, at a minimum, that they will result in no net loss of shoreline ecological functions.
- 2) Fills waterward of the OHWM (not including small scale beach restoration that does not exceed twenty-five (25) cubic yards) shall require a CUP and shall be restricted to the minimum necessary to:



- a. Support water-dependent uses;
  - b. Provide public access;
  - c. Allow for the remediation and disposal of contaminated sediments as part of an interagency clean-up plan;
  - d. Allow the disposal of dredged sediments in accordance with DNR rules;
  - e. Provide for the expansion or alteration of transportation facilities of statewide significance when no other alternatives are feasible; and
  - f. Accomplish mitigation actions, environmental restoration and enhancement projects, and only when other solutions would result in greater environmental impact.
- 3) Fills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area.
  - 4) All perimeters of fills shall be provided with vegetation, retaining walls, or other satisfactory mechanisms for erosion prevention and sediment capture.
  - 5) Fill shall be permitted only where it is demonstrated that the proposed action will not:
    - a. Result in significant damage to water quality, fish, aquatic habitat, and/or wildlife habitat; or
    - b. Adversely alter natural drainage and circulation patterns, or significantly reduce floodwater-holding capabilities.
  - 6) No refuse disposal sites, solid waste disposal sites, or sanitary fills shall be permitted within the American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom or Waughop Lake shoreline areas.
  - 7) Any placement or removal of materials landward of the OHWM shall comply with the Vegetation Conservation and Critical Areas provisions of this SMP.
  - 8) Fill for the purpose of raising the average grade level is prohibited.

## 5. Overwater Structures and Launching Facilities

### a) Applicability

Piers and docks are structures that abut the shoreline and often used as a landing or moorage place for watercraft. Piers are built on fixed platforms supported by piles above the water, while docks float upon the water. Some piers may terminate in a float section that is connected by a ramp.

Recreational floats are independent anchored offshore platforms, used for water-dependent recreational activities such as swimming and diving.

Boat launches include graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

All of these types of facilities have positive and negative environmental aspects. Floating docks generally have less of a visual impact than piers on pilings. However, in the nearshore, docks can interrupt littoral drift of sediments and other suspended materials, and significantly shade the aquatic environment throughout their length. Pile piers can provide diverse habitat for both desirable and undesirable aquatic life. Excavated moorage involves dredging and disturbs bottom sediments and aquatic life. Docks and piers alike create impediments to boat traffic and fish travel. Boat launches impact soils and vegetation, both upland and aquatic. Construction of these facilities requires regulation to protect navigation, to protect shoreline aesthetics, and to maintain the useable water surface and aquatic lands for life forms characteristic and important to those areas.

## **b) Exemptions**

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 and five hundred 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 and two hundred dollars (\$11,200) for all other docks constructed in fresh waters.

However, if subsequent construction occurs within five (5) years of 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.

~~Construction of dock structures for the private noncommercial use of the owner, lessee, or contract purchaser of single and multi-family residences are exempt from the requirement for a Substantial Development Permit pursuant to RCW 90.58.030(3)(c)(vii) and WAC 173-27-040(2)(h). 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 the fair market value of the dock does not exceed (I) twenty thousand dollars (\$20,000) for docks that are constructed to replace existing docks and are of equal or lesser square footage than the existing dock being replaced; or (II) ten thousand dollars for all other docks constructed in fresh waters. However, if subsequent construction occurs within five (5) years of completion of the prior construction, and the combined fair market value of the subsequent and prior construction exceeds the amount specified in either (I) or (II) above, the subsequent construction shall be considered a substantial development. All dollar thresholds will be adjusted for inflation by the State Office of Financial Management every five (5) years, beginning July 1, 2018, based upon changes in the consumer price index during that time period, and this change is hereby incorporated by reference.~~

The City will review all development proposals for overwater structures to determine if:

- 1) The proposal is or is not exempt from the requirement for a Substantial Development Permit;
- 2) The proposal is suitably located and designed and that all potential impacts have been recognized and mitigated such that there is no net loss of shoreline ecological functions; and
- 3) The proposal is consistent with the intent, policies, and regulations of the SMA, the SMP Guidelines, and this SMP.

### c) General Policies

- 1) New piers and docks should be allowed only for public access and water-dependent uses.
- 2) New piers and docks should be restricted to the minimum size necessary and permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent use.
- 3) Piers and docks should be discouraged where conflicts with recreational boaters and other recreational water activities would be created by pier and dock construction.
- 4) The further proliferation of single-purpose, single-owner piers, and docks should be discouraged. Preference should be given to the shared use piers in shoreline areas.
- 5) Preference should be given to fixed-pile piers elevated above the OHWM. Floating docks should be allowed if the applicant can demonstrate why a fixed pile pier is not feasible or will result in greater impacts.
- 6) Recreational floats should be allowed where they are intended to support public or private recreational uses, or in lieu of fixed piers adjacent to residential land uses.
- 7) New overwater boathouses are prohibited and new moorage covers should not be allowed, except through a CUP in the Shoreline Residential environment.
- 8) Overwater structures, including piers, should only be authorized after consideration of:
  - a. The effect such structures have on wildlife and aquatic life, water quality, scenic and aesthetic values, environmentally sensitive resources, submerged lands, and submerged vegetation.
  - b. The effect such structures have on water circulation, recreational boating, sediment movement and littoral drift and shoreline access.
- 9) Overwater structures and mooring buoys should be designed to cause minimum interference with navigable waters and the public's safe use of the lake and shoreline.
- 10) The proposed size of the structure and intensity of use or uses of any overwater structure should be compatible with the surrounding environment and land and water uses.
- 11) Lighting facilities should be limited to the minimum extent necessary to locate the pier or dock at night.

#### **d) Regulations - Docks, Piers and Moorage Structures**

- 1) All new overwater structures, including modifications and/or additions, must comply with all regulations contained in this SMP and all other regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction.
- 2) Mitigation shall be provided for all reconstructed, repaired, or modified overwater structures to ensure no net loss of ecological function.
- 3) Fixed pile piers elevated at least two (2) feet above the water surface shall be preferred over floating docks. Floating docks shall be allowed if floating elements are not located within the first twenty (20) feet of the shoreline, measured waterward of the OHWM, unless the applicant can demonstrate why adherence to this restriction is not feasible and an alternative design would result in less ecological impact.
- 4) New piers and docks shall be allowed only for public access and water-dependent use, which includes a structure associated with a single-family residence that is designed and intended as a facility for access to watercraft and otherwise complies with the regulations contained in this section. Piers and docks of the minimum size necessary to accommodate the proposed water dependent use may be permitted accessory to a development provided:
  - a. No more than one (1) pier/dock for each single-family residence is permitted. Up to one (1) buoy is allowed per dwelling unit in lieu of a dock.
  - b. No more than one (1) pier, dock or other moorage structure is allowed for a water dependent commercial use or a multi-family development on a single lot or contiguous ownership with the required minimum lot width.
- 5) On lots that have less than the minimum lot width for an overwater structure, as required in Table V, joint-use piers/docks shall be required, except when lots on either side of the subject lot have legal pre-existing piers or docks and the applicant demonstrates to the satisfaction of the Shoreline Administrator that a shared use agreement is not feasible. Only in this case may the lot with less than the required minimum lot width be permitted an individual pier.
- 6) New piers and docks that are not accessory to single-family residences shall be permitted only when intended for public use or when the applicant demonstrates that a specific need exists to support the intended water-dependent use.
- 7) New residential development of more than two (2) dwellings shall provide a joint use or community moorage structure, rather than individual piers or docks.

- 8) New moorage covers in the Shoreline Residential environment are permitted by a CUP, if the proposal meets all of the following criteria:
  - a. The applicant demonstrates that a joint use or community moorage structure is not feasible;
  - b. The applicant demonstrates that the moorage cover is the minimum size necessary to provide for the water dependent use;
  - c. The overwater structure does not create any potential adverse impacts to public safety;
  - d. Navigation rights are not significantly impacted;
  - e. The overwater structure does not cause environmental impacts that cannot be sufficiently mitigated;
  - f. The covered moorage is placed as far waterward of the OHWM as feasible and safe, within the limits of the dimensional standards for docks and piers established in this Section;
  - g. There is only one (1) covered moorage per moorage facility, including joint use piers; and
  - h. The overwater structure complies with all other conditional use criteria in WAC 173-27-160 as outlined in Chapter 6 of this SMP.
  
- 9) New boat lifts and boat lift canopies are permitted as long as the following requirements are met:
  - a. Boatlifts shall be placed as far waterward of the OHWM as feasible and safe, within the limits of the dimension standards for piers and docks.
  - b. Bottom of a boat lift canopy shall be elevated above the boat lift to the maximum extent feasible, the lowest edge of the canopy must be at least four (4) feet above the water surface, and the top of the canopy must not extend more than seven (7) feet above an associated pier.
  - c. One boat lift and boat lift canopy and up to two (2) jetski lifts per dwelling unit.
  - d. The lift does not require the placement of pilings or permanent structures.
  - e. A maximum of two (2) cubic yards of clean rock fill or pre-cast concrete blocks are permitted to anchor the boat lift if the substrate prevents the use of anchoring devices.
  - f. No hydraulic fluid other than water shall be used in the boat lift system; backflow protection may be required.

- 10) Proposed overwater structures that do not comply with the dimensional standards in Table V may only be approved if they obtain a variance. Provided that, pursuant to WAC 173-27-040 (2)(b), any legally existing nonconforming pier or dock may be repaired or restored (replacement may be authorized as repair) to its original pre-existing size, dimension, configuration and location without the need for a variance, provided such activity meets the definition of normal maintenance and repair. Projects undertaken pursuant to this section must be permitted within two years of removal of the pre-existing, nonconforming structure.
- 11) All float tubs shall be fully encapsulated.
- 12) Floating docks are required to be designed to not ground during low water conditions.
- 13) All overwater structures shall be constructed and maintained in a safe and sound condition. Abandoned or unsafe overwater structures shall be removed or repaired promptly by the owner.
- 14) Wooden components that will be in contact with water or over water shall not be treated or coated with herbicides, fungicides, paint, pentachlorophenol, arsenate, creosote, or similar toxic substances. Structures shall be made out of materials that have been approved by applicable state and federal agencies.
- 15) Non-water dependent elements and uses, such as decks and gazebos built on piers or docks, are not allowed.

**Table V. Dimensional Standards for Overwater Structures**

<b>Standard</b>	<b>Dock or Float</b>	<b>Pier</b>	<b>Moorage Pile or Buoy</b>
Height above OHWM <sup>1</sup>	N/A	2 ft.	N/A
Maximum Waterward Distance for all Single Use and Joint Use Moorage Structures or Floats <sup>2</sup>	Point at which 11 ft. water depth from OHWM is reached, not to exceed the following:  Lake Louise: 40 ft.  All other lakes: 80 ft.	Point at which 11 ft. water depth from OHWM is reached, not to exceed the following:  Lake Louise: 40 ft. All  Other lakes: 80 ft.	Point at which 11 ft. water depth from OHWM is reached, not to exceed the following:  Lake Louise: 40 ft. All  Other lakes: 80 ft.
Maximum Waterward Distance for Community Docks	150 ft.	150 ft.	N/A
Setback from Extension of Side Yard Lot Lines	10 ft.	10 ft.	10 ft.
Maximum Surface Area <sup>4</sup>	550 sq. ft. (single owner) 640 sq. ft. (2 owners)  100 sq. ft. for each additional owner over 2 up to a maximum size of 2,000 sq. ft.  Please note that all docks and piers must also meet water frontage standards	550 sq. ft. (single owner) 700 sq. ft. (2 owners)  120 sq. ft. for each additional owner over 2 up to a maximum size of 2,000 sq. ft.  Please note that all docks and piers and docks must also meet water frontage standards	N/A
Location of Ells, Fingers and Deck Platforms, or Freestanding Buoy or Moorage Pile <sup>3</sup>	No closer than 20 ft. waterward of the OHWM.  Within 20 ft. of the OHWM, only the access ramp portion of dock is allowed.	No closer than 20 ft. waterward of the OHWM.  Within 20 ft. of the OHWM, only the access ramp portion of dock is allowed.	No closer than 20 ft. waterward of the OHWM and moorage piles may not be located farther away than the end of the pier of dock
Minimum Water Frontage Required - Single-Family	50 ft.	50 ft.	None



Standard	Dock or Float	Pier	Moorage Pile or Buoy
Private Joint Use or Community Docks - Intensity of Use (Number of Slips)	One moorage for each 30 ft. of shoreline frontage up to 210 ft., plus one moorage for each additional 20 ft.	One moorage for each 30 ft. of shoreline frontage up to 210 ft., plus one moorage for each additional 20 ft.	N/A
<u>On Lake Steilacoom only, pier and dock primary walkways or decks must be fully grated or contain other materials that allow light transmittance through between thirty and fifty percent (30%-50%) of the material, depending on the pier or float width.</u>			

<sup>1</sup> During the course of the normal fluctuations of the elevation of the water body, No portion of a deck of a pier shall protrude more than six (6) feet above the water surface.

<sup>2</sup> The proposed length must be the minimum necessary to support the intended use. The total dock length includes approach ramp and floating element(s). If eleven (11) foot average water depth is reached within twenty (20) feet of the approach ramp for a dock, a floating element will be permitted, not to exceed the maximum length standard. A dock or pier may exceed the maximum length with a shoreline variance, provided a report prepared by a qualified professional that includes verifiable survey information demonstrates the average water depth of eleven (11) feet is not attainable within the maximum length allowed from the OHWM. Existing public piers may be repaired or replaced to their previous length.

<sup>3</sup> Includes all walkways and additional fingers. The maximum width of a ramp connecting a pier to a float should be minimized to the maximum extent practical and should not exceed 4 feet in width. ~~On Lake Steilacoom only, pier and dock primary walkways or decks must be fully grated or contain other materials that allow light transmittance through between thirty and fifty percent (30% -50%) of the material, depending on the pier or float width.~~

<sup>4</sup> Includes all walkways, ramps, and additional fingers. The maximum surface area also includes the areas of related or separate recreational floats. Two or more residential property owners must utilize joint-use docks and piers. Existing public piers may be repaired or replaced to their previous square footage.

### e) Regulations - Recreational Floats

1) Recreational floats may be permitted, provided:

- a. The area of a recreational float shall be minimized to the maximum extent feasible and comply with regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction. No recreational float shall have more than one hundred and fifty (150) square feet when associated with a private recreation land use, and four hundred (400) when associated with a public recreational land use.
- b. Distance waterward from the OHWM. Recreational floats must be in water with depths of eleven (11) feet or more at the landward end of the float and may be located up to a maximum waterward distance as shown in Table V.

- c. The area of the recreational float shall be in addition to the maximum surface area for overwater structures in Table V.
- 2) Recreational floats shall be designed and intended for swim use or other non-motorized use.

- 3) On Lake Steilacoom, recreational floats shall be fully grated.
- 4) Retrieval lines shall not float at or near the surface of the water.
- 5) Height. Recreational floats must be built so that the deck surface is one (1) foot above the water's surface and they must have reflectors for nighttime visibility.
- 6) All float tubs shall be fully encapsulated.

**f) Regulations - Moorage Piles and Buoys**

- 1) Up to two (2) moorage piles are allowed per dwelling unit, up to a maximum of six (6) moorage piles for joint use or community docks.
- 2) Up to one (1) buoy is allowed per dwelling unit in lieu of a dock.
- 3) Buoys shall be anchored to the lake substrate in accordance with all state and federal requirements.

**g) Regulations - Boat Launches (Rails and Ramps)**

- 1) Launching rails may be permitted as a conditional use in the Shoreline Residential environment in lieu of a moorage pier. The applicant shall demonstrate that the proposed length of the rail is the minimum necessary to safely launch the intended craft and comply with all regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction. In no case shall the rail extend beyond the point where the water depth is eight (8) feet below the OHWM.
- 2) Launching rails shall be anchored to the ground with the use of tie-type construction.
- 3) No more than one (1) launching rail per single-family residence or duplex is permitted.
- 4) Launching ramps may be permitted as a conditional use for recreational uses or when serving more than four (4) residential units in the Shoreline Residential or Urban Park environment. The applicant shall demonstrate that the proposed length of the ramp is the minimum necessary to safely launch the intended craft and comply with all regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction. In no case shall the ramp extend beyond the point where the water depth is eight (8) feet below the OHWM.
- 5) Launching ramps serving more than four (4) residential units are regulated as Boating Facilities and they must comply with all policies and regulations in Chapter 4 of this SMP. Launching rails serving more than four (4) residential units are prohibited.

- 6) Location Standards - Launch ramps and launching rails shall be sited so that they do not significantly damage fish and wildlife habitats and shall not occur in areas with native emergent vegetation. Removal of native upland vegetation shall be minimized to the greatest extent feasible. All facilities shall be sited and designed per required mitigation sequencing.
- 7) Where feasible, launch ramps and launching rails shall be located only on stable shorelines where water depths are adequate to eliminate or minimize the need for dredging, filling, beach enhancement or other maintenance activities.
- 8) The design shall comply with all regulations as stipulated by state and federal agencies, affected tribes, or other agencies with jurisdiction.
- 9) Design Standards
  - a. Boat launches for non-motorized boats shall be constructed of gravel or other similar natural material.
  - b. Preferred launch ramp designs for motorized boats, in order of priority, are:
    - i. Open grid designs with minimum coverage of lake substrate.
    - ii. Seasonal ramps that can be removed and stored upland.
    - iii. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in shoreline profile.
    - iv. Standard concrete pads.

#### **h) Regulations - In-stream Structures**

- 1) In-stream structures shall be minimized and shall only be allowed consistent with the provisions of the SMP, including mitigation sequencing and no net loss.
- 2) When allowed, in-stream structures shall be located, designed and operated to protect and preserve ecosystem-wide processes, ecological functions and cultural resources, including (but not limited to) fish passage, wildlife and water resources, critical areas, hydrogeological processes and natural scenic vistas.
- 3) 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. In particular, this includes anadromous fish.



# Chapter 6 Administration

## A. Purpose and Applicability

There is hereby established an administrative system designed to assign responsibilities for implementation of the SMP and shoreline permit review, to prescribe an orderly process by which to review proposals and permit applications, and to ensure that all persons affected by this SMP are treated in a fair and equitable manner. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the SMA and to the policies and regulations of this SMP.

The SMP shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity which develops, owns, leases or administers lands, wetlands, or waters that fall under the jurisdiction of the Act. The permit requirements established under the SMP apply to all nonfederal activities, and to development and uses undertaken on lands not federally owned but under lease, easement, license or other similar property right of the federal government. Nothing in the SMP shall affect and rights established by treaty to which the United States is a party.

## B. Shoreline Administrator

### 1. Authority

- a) The City's Shoreline Administrator is hereby vested with:
  - 1) Overall authority for administering the SMA and this SMP;
  - 2) Authority to approve, approve with conditions, or deny shoreline permit revisions in accordance with the policies and provisions of this SMP; and
  - 3) Authority to grant statements of exemption from substantial development permits in accordance with the policies and provisions of this SMP.

### 2. Duties

- a) The duties and responsibilities of the Shoreline Administrator shall include:
  - 1) Preparing and using application forms essential to administer this SMP.
  - 2) Advising interested citizens and applicants of the policies, regulations, and procedures of this SMP.

- 3) Making administrative decisions and interpretations of the policies and regulations of this SMP and the SMA. In development of any procedures for and/or administrative interpretations of the Master Program, the Administrator shall consult with the Department of Ecology to insure any formal written interpretation is consistent with the purpose and intent of the Shoreline Management Act and the Shoreline Master Program Guidelines.
- 4) Collecting applicable fees, as established in the City's fee schedule.
- 5) Determining application submission completeness.
- 6) Conducting field inspections as necessary.
- 7) Reviewing applications and submitted and related information.
- 8) Determining if a substantial development permit, CUP, or variance is required.
- 9) Providing copies of permit applications to relevant staff and agencies for review and comment.
- 10) Conducting a thorough review and analysis of shoreline exemption applications; reviewing other staff and agency comments; making written findings and conclusions; and approving, approving with conditions, or denying such exemptions.
- 11) Submitting substantial development permit, CUP and variance applications and written recommendations and findings on such permits to the City's Hearing Examiner for their consideration and action.
- 12) Assuring that proper notice is given to appropriate persons and the public for all hearings.
- 13) Providing technical and administrative assistance to the City's Hearing Examiner, Planning Advisory Board, and City Council as required for effective and equitable implementation of this program and the Act.
- 14) Investigating, developing, and proposing amendments to this SMP as deemed necessary to more effectively and equitably achieve its policies.
- 15) Enforcing and seeking remedies for alleged violations of this SMP, the SMA or conditions of any approved shoreline permit issued by the City.
- 16) Acting as the primary liaison between local and state agencies in the administration of the SMA and this SMP.
- 17) Forwarding shoreline permits to the Ecology for filing or action.

## C. Substantial Development

Any person wishing to undertake substantial development within the shoreline shall submit materials as required under Chapter 18A.02 LMC and shall apply to the Shoreline Administrator for a shoreline permit, as required in this Chapter and Chapter 90.58 RCW. Specific submittal requirements may be established by administrative rule.

### I. Exemptions

a) Developments, which are exempt from the requirement for a substantial development permit, are identified in WAC 173-27-0404 or as subsequently amended. [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:](#)

(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 chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.

(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 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 Chapter 80.50 RCW.

b) Applicants must apply for an exemption approval on forms provided by the City, pursuant to Chapter 18A.02 LMC. Applicants shall be required to submit information necessary to determine the exemption and compliance with the requirements of this SMP. Submittal requirements shall be established by administrative rule.

c) Before determining that a proposal is exempt, the Shoreline Administrator may conduct a site inspection to ensure that the proposal meets the exemption criteria.

d) All development, use, or activity that occurs within the shoreline jurisdiction is subject to the requirements of this SMP, regardless of whether a substantial development permit required.



- e) Exempt development may still require a variance or CUP. For example, exempt development that cannot meet the dimensional standards in this SMP will require a variance and certain uses are allowed in certain shoreline environment designations only upon approval of a CUP.
- f) The Administrator shall prepare a letter of exemption whenever a development is determined to be exempt from the Substantial Development permit requirements and the development is subject to one or more of the federal permit requirements outlined in WAC 173-27-050. The letter shall indicate the specific exemption that is being applied to the development and provide a summary of the City's analysis of the consistency of the project with the SMP.

## **2. Permit Process**

- a) Applicants shall apply for substantial development permits, CUPs, and variances on forms provided by the City.

- b) Substantial development permits, CUPs, and variances are Process II applications and shall be processed and subject to the applicable regulations of Chapter 18A.02 LMC, as amended.
- c) Public Notice. A notice of application shall be issued for all shoreline permit applications as provided for in Chapter 18A.02 LMC, as amended, excepting that the public comment period for the notice of application for a shoreline permit shall be not less than thirty (30) days, per WAC 173-27-110(2)(e).
- d) Public Hearing. The Shoreline Administrator, at his or her discretion, may refer any shoreline application to the Hearing Examiner as a Process III application when the proposal could significantly impact another party or the proposal is of broad public concern. If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.
- e) Application review. The Shoreline Administrator shall make decisions on applications for substantial development permits, CUPs, and variances based upon:
  - 1) The policies and procedures of the SMA and related sections of the WAC;
  - 2) Any public comment received on the application as it relates to compliance with the requirements of the SMA or this SMP; and
  - 3) [This SMP Special procedures for WSDOT projects. 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; and](#)
  - 3)4) [This SMP.](#)
- f) Local Appeal. All decisions of the Shoreline Administrator may be appealed to the Hearing Examiner pursuant to Chapter 18A.02 LMC and related provisions. Any party may also appeal a substantial development permit, CUP, or variance to the Shoreline Hearings Board as provided by RCW 90.58.180 without first exhausting any local appeal opportunity. The decision of the Hearing Examiner may also be appealed to the Shoreline Hearings Board.
- g) Filing with Ecology. All applications for a permit or permit revision shall be submitted to Ecology, as required by WAC 173-27-130 or as subsequently amended. After City approval of a CUP or Variance, the City shall submit the permit to the Ecology for approval, approval with conditions, or denial, as provided in WAC 173-27-200. Ecology shall transmit its final decision to the City and the applicant within thirty (30) calendar days of the date of submittal by the City. Permit revisions shall comply with the revision approval criteria and process provided in WAC 173-27-100.
- h) Hold on Construction. Each permit issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of filing with Ecology, per WAC 173-27-190 or as subsequently amended. “Date of filing” of the City’s final decision on Substantial Development Permits differs from date of filing for a CUP or variance. In the case of a substantial development permit, the date of filing is the date Ecology actually receives the



City decision on the permit. In the case of a variance or CUP, the “date of filing” means the date that Ecology’s final decision on the permit is transmitted to the City.

- i) Duration of permits. Construction, or the use or activity, shall commence within two (2) years after the effective date of the permits. Authorization to conduct development activities shall terminate within five (5) years after the effective date of a shoreline permit. The Shoreline Administrator may authorize a single extension before the end of either of these time periods, with prior notice to parties of record and Ecology, for up to one (1) year based on reasonable factors.
- j) Compliance with permit conditions. When permit approval includes conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity. All uses and developments occurring within shoreline jurisdiction shall be compliant with Chapter 90.58 RCW.

## **D. Variances and Conditional Use Permits**

The SMA states that SMPs shall contain provisions covering variances and CUPs that are consistent with Chapter 173-27 WAC. These provisions should be applied in a manner, which assures that a person will be able to use his/her property in a fair and equitable manner while still protecting the environment.

### **1. Shoreline Variance**

#### **a) Purpose**

The purpose of a variance is strictly limited to granting relief to specific bulk dimensions, or performance standards set forth in this SMP, and where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the SMP would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020. Construction pursuant to this permit shall not begin nor can construction be authorized except as provided in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.

#### **b) Application**

- 1) An application for a Variance shall comply with the provisions of Chapter 18A.02 LMC. An applicant for Substantial Development Permit who wishes to request a Variance shall submit the applications for a Variance and Substantial Development Permit simultaneously.

### c) Criteria for Granting Variances

- 1) Variances for development that will be located landward of the OHWM and landward of any wetland may be authorized provided the applicant can demonstrate consistency with the following variance criteria as listed in WAC 173-27-170:
  - a. That the strict application of the bulk, dimensional, or performance standards set forth in the SMP precludes, or significantly interferes with, 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 SMP and not, for example, from deed restrictions or the applicant's own actions.
  - c. That the design of the project is compatible with other permitted activities within the area and with the uses planned for the area under the Comprehensive Plan and SMP and the design will not cause adverse impacts to the shoreline environment.
  - d. That 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.
  - f. That the public interest will suffer no substantial detrimental effect.
- 2) Variances for a development that will be located waterward of the OHWM 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 SMP precludes all reasonable use of the property.
  - b. That the proposal is consistent with the criteria established under subsection (1)(a) through (f) of this section.
  - c. That the public rights of navigation and use of the shorelines will not be adversely affected.
- 3) In the granting of all variances, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.
- 4) Variances from the use regulations of the SMP are prohibited.

## **2. Shoreline Conditional Use Permits**

### **a) Purpose**

The purpose of a CUP is to allow flexibility in the application of use regulations of the SMP in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the SMA and this SMP.

### **b) Application**

An application for a CUP shall comply with the provisions of Chapter 18A.02 LMC. An applicant for a Substantial Development Permit who wishes to request a CUP shall submit the applications for a CUP and Substantial Development Permit simultaneously.

### **c) Criteria for Granting Shoreline Conditional Use Permits**

- 1) Uses classified as conditional uses in the SMP may be authorized, provided the applicant demonstrates all of the following conditional use criteria as listed in WAC 173-27-160:
  - a. That the proposed use is consistent with the policies of RCW 90.58.020 and the SMP;
  - b. That the proposed use will not interfere with the normal public use of public shorelines;
  - c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this SMP;
  - 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.
- 2) In the granting of all CUPs, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if CUPs 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.
- 3) Other uses, which are not classified or set forth in this SMP, may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the SMP.

- 4) Uses, which are specifically prohibited by this SMP, shall not be authorized.

## E. Appeals to the Shoreline Hearings Board

Any person aggrieved by the granting or denying of a substantial development permit, CUP, or variance, the upholding of an exemption appeal, or by the rescinding of a permit pursuant to the provisions of this SMP, may seek review from the State of Washington Shorelines Hearing Board by filing a petition for review within twenty-one (21) days of the date of filing of the permit decision. Within seven (7) days of filing the petition, the petitioner shall serve copies of the petition to Ecology, the Attorney General's Office, and the City of Lakewood. State Hearings Board regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC.

## F. Nonconforming Use and Development Standards

### 1. Applicability

"Nonconforming use or development" means a shoreline use or development which was lawfully constructed or legally established prior to the effective date of the SMA or this SMP, or amendments thereto, but which does not conform to present regulations or standards of this SMP. Nonconforming uses are also subject to LMC Section 18A.02.830. Where the standards in this Section are more specific or conflict with the standards in LMC Section 18A.02.830, the standard in this Section shall apply. Where the standards contained in this Section do not address an issue related to nonconforming development, the standards contained in LMC Section 18A.02.830 shall apply.

### 2. Standards for Nonconforming Structures, Uses, and Lots

#### (1) Nonconforming structures

(a) Structures that were legally established and are used for a conforming use but are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may continue as legal nonconforming structures and may be maintained and repaired.

(b) Nonconforming structures may be enlarged or expanded provided that said enlargement meets the applicable provisions of the master program. In the absence of other more specific regulations, proposed expansion shall not increase the extent of nonconformity by further encroaching upon or extending into areas where construction would not be allowed for new structures, unless a shoreline variance permit is obtained.

(c) Nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040 (2)(g) upon approval of a conditional use permit.

(d) A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

(e) In the absence of other more specific regulations, a structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:

(i) No reasonable alternative conforming use is practical; and

(ii) 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. In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.

(f) A nonconforming structure which is moved any distance must be brought as closely as practicable into conformance with the applicable master program and the act.

(g) If a nonconforming development is damaged to an extent not exceeding seventyfive percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within two years of the date the damage occurred.

## (2) Nonconforming uses

(a) Uses that were legally established and are nonconforming with regard to the use regulations of the master program may continue as legal nonconforming uses.

(b) In the absence of other more specific regulations in the master program, such uses shall not be enlarged or expanded, except upon approval of a conditional use permit.

(c) If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming unless re-establishment of the use is authorized through a conditional use permit which must be applied for within the twoyear period. Water-dependent uses should not be considered discontinued when they are inactive due to dormancy, or where the use includes phased or rotational operations as part of typical operations. A use authorized pursuant to subsection (2)(e) of this section shall be considered a conforming use for purposes of this section.

## (3) Nonconforming lot

A nonconforming lot may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the applicable master program and the act.

## 2.3. ~~Standards for Nonconforming Structures, Uses, and Lots~~

### a) ~~Structures~~

1) ~~Upland structures that were legally established and are used for a conforming use, but which are~~



~~nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may be maintained and repaired and may be modified or expanded provided that said modification or expansion does not increase the extent of nonconformity by further encroaching upon, extending into, or expanding the area within areas where construction or use would not be allowed for new development or uses. Modification or addition to a nonconforming structure shall not increase the building footprint lying within the required setback area.~~

- ~~2) A nonconforming upland structure that is unintentionally damaged may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, regardless of degree of damage, provided that application is made for the permits necessary to restore the structure within two (2) years of the date the damage occurred and all permits or authorizations are obtained within three (3) years.~~

**110**

- ~~3) Additions or alterations to overwater structures shall be in conformance with all policies and regulations set forth in this SMP, including (but not limited to) the maximum size, length and other dimensional standards.~~
- ~~4) The repair, modification, and replacement of all shoreline stabilization shall be in conformance with all policies and regulations in Chapter 5, Section C(2), Shoreline Stabilization.~~
- ~~5) A legally nonconforming structure that is moved any distance must be brought in conformance with the SMP.~~
- ~~6) A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.~~

#### **~~b) Uses~~**

- ~~1) Uses and developments that were legally established and that are nonconforming with regard to the use regulations of the SMP may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded.~~
- ~~2) A use which is listed as a conditional use, but which existed prior to adoption of this SMP or any relevant amendment and for which a CUP has not been obtained, shall be considered a legal nonconforming use.~~
- ~~3) A legal nonconforming use may be re-established as a nonconformance, except that any nonconforming use that is discontinued for a period of six (6) continuous months shall not be re-established. To show that there has been a discontinuance or abandonment of the nonconforming use, there must be evidence that the property owner intended to discontinue or abandon the use. Vacancy of a property alone shall not constitute conclusive evidence.~~
- ~~4) A structure that is being or that has been used for a nonconforming use may not be used for another nonconforming use.~~

#### **~~c) Sites or Lots~~**

- ~~1) An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM, which was legally established prior to the effective date of the Act or this SMP, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the City and so long as such development conforms to all other requirements of this SMP and the SMA.~~

## G. Enforcement and Penalties

### 1. General Provisions

- a) The Shoreline Administrator shall enforce all provisions of this SMP. The enforcement procedures and penalties contained in Chapter 173-27 WAC and Chapter 90.58 RCW are hereby incorporated by reference. See also Chapter 1.44 LMC for additional information regarding the City's enforcement regulations and related penalties.
- b) The Shoreline Administrator shall have authority to enforce this Title, any rule or regulation adopted, and any permit, order or approval issued pursuant to this Title, against any violation or threatened violation thereof. The Shoreline Administrator is authorized to issue civil infraction citations and administrative orders, levy fines, and/or institute legal actions in court including prosecution of misdemeanor violations. Recourse to any single remedy shall not preclude recourse to any of the other remedies. Each violation of this Title, or any rule or regulation adopted, or any permit, permit condition, approval or order issued pursuant to this Title, shall be a separate offense, and, in the case of a continuing violation, each day's continuance shall be deemed a separate and distinct offense. An application for a required permit, when pursued in good faith, shall stay the accumulation of violations. All costs, fees, and expenses in connection with enforcement actions may be recovered as damages against the violator.
- c) The Shoreline Administrator is authorized to make site inspections and take such actions as necessary to enforce the SMP. The Shoreline Administrator or representative may enter private property with the consent of the owner or occupant or pursuant to a warrant.
- d) The Shoreline Administrator shall have the authority to order restoration, rehabilitation or replacement measures to compensate for the destruction or degradation of areas at the owner's expense.
- e) The Shoreline Administrator may bring appropriate actions at law or equity, including actions for injunctive relief, to ensure that no uses are made of shorelines, which are inconsistent with this Title. Enforcement actions shall include civil infractions, administrative orders, prosecution of misdemeanors, and actions for damages and restoration.
- f) Aiding or abetting. Any person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have committed a violation of this Title.
- g) Any person found to have violated any provision of this Title or who knowingly makes a false statement, representation or certification in any application, record or other document filed or required to be maintained under this Title or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device, record or methodology required to be maintained pursuant to this Title shall be guilty of a misdemeanor, punishable by up to 90 days in jail and/or a fine of up to \$1,000.00.

h) Orders and penalties issued pursuant to this Section may be appealed as provided for by this Title.

## 2. Administrative Orders

- a) The Shoreline Administrator may serve an administrative order when any person makes or partakes in any use of land, development or any activity within the shoreline jurisdiction or on associated critical areas and/or buffers in violation of this Title. The order shall include the following:
- 1) A description of the specific nature, location, extent, and time of violation. The order may include the damage or potential damage resulting from the violation.
  - 2) A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty may be issued with the order.
  - 3) Effective date. The cease and desist order issued under this Section shall become effective immediately upon receipt by the person to whom the order is directed.
  - 4) Compliance. Failure to comply with the terms of an administrative order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.
  - 5) The order may include specific corrective measures to be taken to mitigate environmental damage.
  - 6) The order shall state that an affected party may request a hearing by sending a written request for a hearing to the Shoreline Administrator within ten (10) days of the receipt of said order and upon payment of the applicable appeal fee.
  - 7) Failure to comply with the terms and provisions of an administrative order issued under this Title shall constitute public nuisance and may be abated and prosecuted according to applicable law including LMC Section 8.16, Chapter 7.48 RCW and Chapter 9.66 RCW.
  - 8) Administrative orders pursuant to this Title shall be served upon the property owner, person, or party occupying the property by personal service or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to the property owner at the property address or to the mailing address listed upon public records regarding the property. In the event that personal service or certified mail service cannot be completed, or the property owner cannot be identified or located, service of the order may be achieved by posting the administrative order in a conspicuous location upon the property.
    - a. Any person who undertakes any activity within an area regulated by the SMA or affiliated critical area or buffer without first obtaining an approval required by this Title, or who violates one or more conditions of any approval required by this Title, shall be subject to a Class 2 civil

infraction citation with a mandatory \$250.00 fine. Any person who violates one or more conditions of administrative order issued under this Title may be subject to prosecution for a misdemeanor, and a maximum penalty of 90 days in jail and/or a \$1,000.00 fine may be imposed. Each violation and, in the case of a continuing violation, each violation and each day of activity without a required approval shall be a separate and distinct violation. An application for a required permit, when pursued in good faith, shall stay the accumulation of violations. The penalty provided shall be appealable as provided by law.

- b. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Title, shall be guilty of a civil infraction or misdemeanor. Each day or portion of a day during which a violation of this Title is continued, committed, or permitted shall constitute a separate offense. Any development carried out contrary to the provisions of this Title shall constitute a public nuisance and it may be enjoined as provided by the Statutes of the State of Washington.

### 3. Suspension and Revocation

In addition to other penalties provided for elsewhere, the Shoreline Administrator may suspend or revoke any project permit approval if it finds that the applicant has not complied with any or all of the conditions or limitations set forth in the approval, has exceeded the scope of work set forth in the approval, or has failed to undertake the project in the manner set forth in the approved application.

## H. Shoreline Master Program Review by City of Lakewood

1. This SMP shall be periodically reviewed and amendments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in state statutes and [regulations, administrative rules, and changes to the City's Comprehensive Plan and implementing regulations](#).
2. The City's established permit tracking system, aerial photos, reviewing of other available data, and field observations as feasible shall be used to periodically evaluate the effectiveness of this SMP in achieving no net loss of shoreline ecological functions with respect to both permitting and exemptions. This process shall also be used to periodically evaluate the cumulative effects of authorized development on shoreline conditions.
3. As part of any major update, an evaluation report assessing the effectiveness of the SMP in achieving no net loss shall be prepared and considered in determining whether policies and regulations are adequate in achieving this requirement.
4. The SMP [periodic review and update](#) process shall be consistent [with requirements of RCW 90.58.080 and WAC 173-26-090 with the requirements of Chapter 173-26 WAC or or](#) its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

## **I. Amendments to the Shoreline Master Program**

1. Any of the provisions of this SMP may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-26 WAC. Any amendments shall also be subject to the procedures in LMC Section 18A.02.
2. Amendments or revisions to the SMP, as provided by law, do not become effective until approved by Ecology.

## **J. Severability**

If any provisions of this SMP, or its application to any person or legal entity or parcel of land or circumstances is held invalid, the remainder of this SMP, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected.

## **K. Conflict of Provisions**

Should a conflict occur between the provisions of this SMP or between this SMP and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within the City, the requirement that most supports the purposes and provisions of the SMA as detailed in RCW 90.58.020 shall apply, as determined by the Shoreline Administrator, except when constrained by federal or state law.



# Chapter 7 Definitions and Abbreviations

THE FOLLOWING WORDS AND PHRASES ARE GIVEN THE DEFINITIONS AND/OR ABBREVIATIONS PROVIDED IN THIS CHAPTER FOR PURPOSES OF INTERPRETING THIS SMP.

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

**Accretion** - The growth of a beach by the addition of material transported by wind and/or water, including, but not limited to, shore forms such as barrier beaches, points, spits, and hooks.

**Act** - The Shoreline Management Act (See Chapter 90.58 RCW).

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

**Agriculture** - Agricultural uses, practices and activities. In all cases, the use of agriculture related terms shall be consistent with the specific meanings provided in WAC 173-26-020. Accessory agricultural uses may consist of garden plots, livestock pens, barns, or other structures supporting incidental agriculture on the property.

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

**Appurtenance** - A structure or development which is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and also of the perimeter of any wetland. For purposes of this SMP, normal appurtenances are outlined in Chapter 4, Section D(6)(c)(11).

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

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

**Associated wetlands** - Those wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the SMA. (See WAC 173-22-030(1)).



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

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

**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 that more closely resembles a natural beach, using beach feeding, vegetation, drift sills and other nonintrusive means as applicable.

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

**Benthic organism or Benthos** - Living organisms that live in or on the bottom layer of aquatic systems, at the interface of the sediment (or substrate) and overlying water column. Benthos commonly refers to an assemblage of insects, worms, algae, plants and bacteria.

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

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

**Bioengineering** - see Soil bioengineering.

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

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

**BMPs** - see Best Management Practices.

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

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

**Boat lift canopy** - A translucent canopy or awning that is attached to the boat lift to shield the boat from sun and precipitation.

**Boathouse** - A structure designed for storage of vessels located over water or on shorelands. Boathouses do not include "houseboats" or "floating homes." Boathouses have 4 walls and a solid roof, whereas covered moorage does not include walls, only a roof.

**Boating facility** - A public or private moorage structure or boat launch serving more than four (4) residences.

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

[Buffer or "buffer zone, strip, or area" means the area adjacent to a shoreline or critical area that separates and protects the area from adverse impacts associated with adjacent land uses.](#)

**Bulkhead** - A vertical or nearly vertical erosion protection structure placed parallel to the shoreline at or near the OHWM, consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

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

**Channel Migration Zone (CMZ)** - The area within which a river channel is likely to move over a period of time, also referred to as the meander belt. Unless otherwise demonstrated through scientific and technical information, areas separated from the active river channel by legally existing artificial channel constraints that limit channel movement within incorporated municipalities and urban growth areas and all areas separated from the active channel by a legally existing artificial structure(s) that is likely to restrain channel migration, including transportation facilities, built above or constructed to remain intact through the one hundred-year flood should not be considered within the CMZ.

**Chapter 90.58 RCW** - The Shoreline Management Act of 1971.

**City** - The City of Lakewood.

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

**CMZ** - see Channel Migration Zone.

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

**Community Pier / Dock** - Joint use moorage serving more than four (4) residences that is tied to specific parcels by covenant or deed. Community piers are distinguished from marinas in that they do not offer moorage space for lease or sale.

**Comprehensive Plan** - Comprehensive plan means the document adopted by the city council, including all attachments, that outlines the City's goals and policies relating to growth management, and prepared in accordance with Chapter 36.70A RCW.

**Conditional Use** - A use, development, or substantial development that is classified as a conditional use or is not classified within the SMP. (See WAC 173-27-030(4)).

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

**Covered moorage** - Boat moorage, without solid walls, that has a solid roof to protect the vessel and is attached to the dock itself or the substrate of the lake.

**Cumulative impact** - The impact on the environment resulting from the incremental impact of past, present, and reasonably foreseeable future actions taken together regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

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

**Development** - 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 permanent or temporary project which interferes with the normal public use of the waters overlying lands subject to the SMA at any state of water level. [“Development” does not include dismantling or removing structures if there is no other associated development or re-development.](#) (See RCW 90.58.030(3a)).

**DFW** - the Washington State Department of Fish and Wildlife.

**DNR** - the Washington State Department of Natural Resources.

**Dock** - A floating moorage structure.

**Dredge spoil or Dredge material** - The material removed by dredging.

**Dredging** - Excavation or displacement of the bottom or shoreline of a water body by mechanical or hydraulic machines to maintain channel depths or berths for navigational purposes or to cleanup polluted sediments.

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

**EIS** - Environmental Impact Statement.

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

**Ecology** - The Washington State Department of Ecology.

**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.

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

**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 SMP. Emergency construction is construed narrowly as that which is necessary to protect property from damage by the elements. For a complete definition of emergency, including required follow up actions and exclusions from this definition, see RCW 90.58.030(3eiii) and WAC 173-27-040(2d)).

**Endangered Species Act (ESA)** - A federal law intended to protect any fish or wildlife species that are threatened with extinction throughout all or a significant portion of its range. (See 16 U.S.C. § 1531 et seq.).

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

**Environmental impacts** - The effects or consequences of actions on the natural and built environments, including effects upon the elements of the environment listed in the State Environmental Policy Act. (See WAC 197-11-600 and WAC 197-11-444).

**Environmentally Sensitive Areas Ordinance 362, City of Lakewood** - This ordinance provides the goals, policies, and implementing regulations for protecting the designated critical areas of the City. The ordinance addresses environmentally sensitive area development controls; measures important for protecting and preserving these resources; preventing or mitigating cumulative adverse environmental impacts to critical areas; and serves to alert the public to the development limitations of critical areas.

**Environments or Shoreline Environment** - Designations given to specific shoreline areas based on the existing development pattern, the biophysical capabilities and limitations, and the goals and aspirations of local citizenry, as part of an SMP.

**Erosion** - The wearing away of land by of natural forces.

**Exaction** – A concept in real property law where a condition for development is imposed on a parcel of land that requires the developer to mitigate anticipated negative impacts of the development.

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

**Excavation** - The artificial movement of earth materials.

**Exemption** - Specific developments exempt from the definition of substantial developments and the Substantial Development Permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local SMP. CUPs and/or Variances may also still be required even though the activity does not need a Substantial Development Permit. For a complete list of exemptions, see WAC 173-27-040.

**Fair market value** - The open market bid price for conducting the work, using the equipment and facilities, and purchasing the goods, services and materials necessary to accomplish a development, normally 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 (See WAC 173-27-030(8)).

**Feasible** - An action, such as a development project, mitigation, or preservation requirement, that meets all of the following conditions:

- (a) 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;

- (b) The action provides a reasonable likelihood of achieving its intended purpose; and
- (c) The action does not physically preclude achieving the project's primary intended legal use.

In cases where certain actions are required 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.

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

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

**Float** - A floating structure that is moored, anchored, or otherwise secured in the water offshore and that may be associated with a fixed-pile pier, or may be a standalone structure, such as platforms used for swimming and diving.

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

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

**Floodplain** - The land area susceptible to inundation with a one percent (1%) chance of being equaled or exceeded in any given year (synonymous with 100-year floodplain). The limits of this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA (See WAC 173-22-030(2)).

**Floodway** - The area, as identified in an SMP, that ~~either: (i) has been established in Federal Emergency Management Agency flood insurance rate maps (FIRM) or floodway maps; or (ii) consists of those river valley areas lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, identified, under normal conditions, by changes in surface soil conditions or in types or quality of vegetative ground cover condition, topography, or other flooding indicators occurring with reasonable regularity. The floodway shall not include those lands that are reasonably expected to be protected by flood control devices maintained by or under a license from the federal government, the state, or a political subdivision of the state.~~

The floodway does not include 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.

**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.

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

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

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

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

**Hearing Examiner** - The Hearing Examiner of the City of Lakewood.

**Height** - The distance measured from the average grade level to the highest point of a structure; provided, that television antennas, chimneys and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines. Temporary construction equipment is excluded in this calculation (See WAC 173-27-030(9)).

**Heliport** - Any landing area or other facility used or intended to be used by private aircraft for landing or taking off of aircraft, including all associated or necessary buildings and open spaces.

**Hoist** - A device used for lifting or lowering a load by means of a drum or lift-wheel around which rope, fiber or chain wraps. It may be manually operated, electrically or pneumatically driven.

**Houseboat** - A vessel, principally used as an over water residence, licensed and designed for use as a mobile structure with detachable utilities or facilities, anchoring, and the adequate self-propulsion and steering equipment to operate as a vessel. Principal use as an overwater residence means occupancy in a single location, for a period exceeding two (2) months in any one calendar year. This definition includes live aboard vessels.

**Impervious surface** - Any horizontal surface artificially covered or hardened so as to prevent or impede the water percolation into the soil mantle including, but not limited to, roof tops, swimming pools, or paved or graveled roads, walkways or parking areas, but excluding landscaping and surface water retention/detention facilities.

**In-stream structure** - A structure placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or water flow diversion, obstruction, or modification. In-stream structures may include structures used for hydroelectric generation, irrigation, water supply, flood control, transportation, utility service, fish habitat enhancement, or other purpose.

**Joint Use Pier or Dock** - A pier, dock, or secured float or floats for vessel moorage, fishing, or other water use that is shared by two (2) or more residences, up to four (4) residences. Joint use moorage serving more than four residences is considered a community pier or dock.

**Lake** - A body of standing water in a depression of land or expanded part of a river, including, but not limited to, reservoirs of twenty (20) acres or greater in total area. A lake is bounded by the OHWM or, where a stream enters a lake, the extension of the elevation of the lake's OHWM within the stream (WAC 173-20-030; WAC 173-22-030(4)).

**Landfill** - The creation of, or addition to, a dry upland area (landward of the OHWM) by the addition of rock, soil, gravels and earth or other material, but not solid or hazardous waste.

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

**Launching rail** - See Boat launch or ramp.

**Launching ramp** - See Boat launch or ramp.

**LID** - Low Impact Development.

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



**Littoral drift** - The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents. **Marina** - A private or public facility providing the purchase or lease of a slip for storing, berthing and securing boats or watercraft, including both long-term and transient moorage, including, but not limited to, accessory facilities that provide incidental services to marina users, such as waste collection, boat sales or rental activities, and retail establishments providing fuel service, repair or service of boat. Community docks and piers, which serve specific upland parcels and which do not offer moorage for purchase by the general public, shall not be considered to be marinas.

**Lot Width** – The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot lines, except that portion of a flag lot that usually forms an extended access way to a street right-of-way.

**Low Impact Development (LID)** - A stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

**May** - Signifies an action is permitted but not required, provided it conforms to the provisions of this SMP.

**Mitigation or Mitigation sequencing** - The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal through the following sequence of steps, listed in order of priority: (See WAC 197-11-768 and WAC 173-26-201(2)(e)(1)).

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

**Moorage** - Any device or structure used to secure a vessel for temporary anchorage, but which is not attached to the vessel (such as a pier or buoy).

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

**Multi-family dwelling or Multi-family residence** - A building containing two (2) or more dwelling units, including, but not limited to, duplexes, triplexes, four-plexes, apartment buildings and condominium buildings.

**Must** - Signifies an action is required.

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

**Nonconforming use, ~~or~~ development, structure, or lot** - (a) "Nonconforming use" means an existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program. (b) "Nonconforming development" or "nonconforming structure" means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program. (c) "Nonconforming lot" means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program. ~~A shoreline use or structure which was lawfully constructed or established prior to the effective date of the SMA or the SMP or amendments thereto, but which no longer conforms to present regulations or standards of the program.~~ (See WAC 173-27-080).

**Normal maintenance** – Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

**Normal repair** – To restore a development to a state comparable to its original condition, 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.

**Ordinary High Water Mark (OHWM)** - The mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or Ecology provided, that in any area where the OHWM cannot be found, OHWM adjoining fresh water shall be the line of mean high water. (See RCW 90.58.030(2)(c) and WAC 173-22-030(5)).

**Overwater structure** - Any device or structure projecting over the OHWM, including, but not limited to, piers, docks, floats, and moorage.

**Permit or Shoreline Permit** - Any substantial development permit, CUPs or variance, or revision, or any combination thereof, authorized by the Act (See WAC 173-27-030(13)).

**Pier** - A fixed, pile-supported moorage structure.

**Primary structure** – The structure associated with the principal use of the property. This also includes single family residential appurtenant structures (such as a 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.

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

- 1) Comparatively high fish or wildlife density;
- 2) Comparatively high fish or wildlife species diversity;
- 3) Fish spawning habitat;
- 4) Important wildlife habitat;
- 5) Important fish or wildlife seasonal range;
- 6) Important fish or wildlife movement corridor;
- 7) Rearing and foraging habitat;
- 8) Important marine mammal haul-out;
- 9) Refuge habitat;
- 10) Limited availability;
- 11) High vulnerability to habitat alteration;
- 12) Unique or dependent species; or
- 13) 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); by a successional stage (such as, old growth and mature forests); or by a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or non-priority fish and wildlife.

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

- (a) State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by DFW (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.
- (b) Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.
- (c) Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.
- (d) Species listed under the federal Endangered Species Act as proposed, threatened, or endangered.

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

**Proposed, Threatened, and Endangered Species** - Those native species that are proposed to be listed or are listed by DFW as threatened or endangered, or that are proposed to be listed or are listed as threatened or endangered under the federal Endangered Species Act.

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

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

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

**RCW** - Revised Code of Washington.

**Residential development** - Development which is primarily devoted to or designed for use as a dwelling(s), including, but not limited to, single-family development, multi-family development, and the creation of new residential lots through land division.

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

**Recreational Use or Development** - Facilities such as parks, trails, and pathways, whether public, private or commercial, that provide a means for relaxation, play, or amusement. For the purposes of this SMP, recreational facilities are divided into two categories:

- 1) Water-oriented (i.e. - moorage facilities, fishing piers, recreational floats, trails, swimming beaches, overlooks, etc.); and
- 2) Non-water-oriented (i.e. - sports fields, golf courses, sport courts, etc.).

**Restoration or Ecological restoration** - The reestablishment or upgrading of impaired ecological shoreline processes or functions 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.

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

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

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

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

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

**SEPA** - see State Environmental Policy Act

**SEPA Checklist** - The checklist required of some projects under SEPA to identify the probable significant adverse impacts on the quality of the environment, to help to reduce or avoid impacts from a proposal, and to help the responsible governmental agency decide whether a full environmental impact statement (EIS) is required (See WAC 197-11-960).

**Setback** - A required open space, specified in SMPs, measured horizontally upland from and perpendicular to the OHWM. [“Setback” means the distance a building structure is placed behind a specified limit such as a lot line or shoreline buffer.](#)

**Shall** - Signifies an action is required.

**Shorelands or Shoreland Areas** - Those lands extending landward for two hundred (200) feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous flood plain 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 the SMA. Shorelands in the City are limited to those areas within two hundred (200) feet of the OHWM of American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek and any associated wetlands.

**Shoreline Administrator** - The City of Lakewood Planning and Community Development Director or his/her designee, charged with the responsibility of administering this SMP.

**Shoreline jurisdiction** - All of the geographic areas covered by the SMA, related rules and the applicable SMP. In the City, shoreline jurisdiction includes American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek, those areas within two hundred (200) feet of the OHWM of these water bodies, and any associated wetlands. See definitions of Shorelines, Shorelines of the state, Shorelines of statewide significance, Shorelands, and Wetlands.

**Shoreline Management Act (SMA)** - Chapter 90.58 RCW, as amended. Washington law adopted to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

**Shoreline Master Program (SMP)** - The comprehensive use plan and related use regulations used by local governments to administer and enforce the permit system for shoreline management. SMPs must be developed in accordance with the policies of the SMA, be approved and adopted by the state, and be consistent with the rules (WACs) adopted by Ecology.

**Shoreline Master Program Guidelines** - The Shoreline Master Program (SMP) Guidelines are state standards which local governments must follow in drafting their shoreline master programs. The Guidelines translate the broad policies of the Shoreline Management Act (RCW 90.58.020) into standards for regulation of shoreline uses. The guidelines are found in WAC 173-26, Part III.

**Shoreline modification** - Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can also include other actions, such as clearing, grading, or application of chemicals or significant vegetation removal.

**Shoreline stabilization** - Actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind or wave action. These actions include structural measures such as bulkheads and nonstructural methods such as building setbacks or relocation of structures.

**Shoreline vegetation management plan (SVMP)** - A plan prepared by a qualified professional that identifies appropriate mitigation, performance assurances, and maintenance and monitoring requirements necessary to assure no net loss of ecological functions.

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

**Shorelines Hearings Board** - A state-level quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government. (See RCW 90.58.170; 90.58.180).

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

**Shorelines of the state** - Shorelines and shorelines of statewide significance.

**Should** - Signifies an action is required unless there is a demonstrated, compelling reason, based on policy of the SMA and this SMP, against taking the action.

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

**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.

**Single-family residence** - A detached dwelling designed for and occupied by one (1) family including those structures and developments within a contiguous ownership which are a normal appurtenance (See Chapter 4, Section D(6)(c)(11)).

**SMA** - see Shoreline Management Act.

**SMP** - see Shoreline Master Program.

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



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

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

**Stream** - A naturally occurring body of periodic or continuously flowing water where the mean annual flow is greater than twenty (20) cubic feet per second and the water is contained within a channel (See WAC 173-22-030(8)).

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

**Substantial Development** - Any development of which the total cost or fair market value exceeds ~~seven~~ thousand, ~~four hundred,~~ and ~~fifty seven~~sixteen dollars (\$~~7,0476,416~~), 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 definition must be adjusted for inflation by the Washington State Office of Financial Management every five (5) years 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 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. A list of activities and developments that shall not be considered substantial development is provided in Chapter 7 (See WAC 173- 27-040(2)(a)).

**SVMP** - see Shoreline Vegetation Management Plan.

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

**Upland** - The dry land area above and landward of the OHWM.

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

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

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

**Variance** - A means to grant relief from the specific bulk, dimensional or performance standards specified in the applicable SMP, but not a means to vary a shoreline use. A variance must be specifically approved, approved with conditions, or denied by Ecology (See WAC 173-27-170).

**WAC** - Washington Administrative Code.

**Water-dependent use** - A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations, including, but not limited to, moorage structures (including those associated with residential properties), ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls.

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

**Water-oriented use** - Refers to any combination of water-dependent, water-related, and/or water enjoyment uses.

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

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

- 1) Of a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water or,

- 2) The use provides a necessary service supportive of the water-dependent commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include manufacturers of ship parts large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent activities and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

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

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



TO: Planning Commission

FROM: Tiffany Speir, Planning Manager, Special Projects

DATE: February 20, 2019

SUBJECT: Title 18A Comprehensive Update

ATTACHMENTS: Preliminary Drafts of LMC Chapters 18A.10, 18A.20, 18A.30

---

The City of Lakewood is conducting a comprehensive review and update to LMC Title 18A, Land Use & Development Code. Under an updated schedule, the Planning Commission is reviewing and discussing the draft Title 18A on February 20, March 6, May 1, May 15, and June 19; a public hearing will be held June 5; and the Commission is currently scheduled to take action on July 17.

While most of the Title 18A update is to reorganize the current code requirements into a more usable format, there are some substantive changes as well. Attached hereto as Attachment A, B, and C for the Commission's review on February 20 are the following chapters:

- Preliminary draft of **Chapter 18A.10 (Basic Provisions and Definitions)**
  - 18A.10.010 Title.
  - 18A.10.020 Purpose.
  - 18A.10.030 Scope.
  - 18A.10.040 Rules of Construction.
  - 18A.10.050 Computation of Time.
  - 18A.10.060 Measurements.
  - 18A.10.070 Interpretations.
  - 18A.10.080 Authority and Comprehensive Plan Consistency.
  - 18A.10.090 Comprehensive Plan Amendments.
  - 18A.10.100 General Requirements.
  - 18A.10.110 Severability.
  - 18A.10.120 Establishment of Zoning Districts.
  - 18A.10.130 Establishment of Overlay Districts.
  - 18A.10.140 Establishment of Subareas.
  - 18A.10.150 Adoption of City-wide and Subarea Zoning Maps.

- 18A.10.160 Boundaries – Administrative Determination.
- 18A.10.170 Boundaries – Planning Commission Recommendation – City Council Determination.
- 18A.10.180 Definitions.

- Preliminary draft of **Chapter 18A.20 (Administration)**

○ Part I Administration (000-199)

- 18A.20.010 Applications.
- 18A.20.020 Application Fees.
- 18A.20.030 Complete Application Form and Content.
- 18A.20.040 Consolidated Review of Applications.
- 18A.20.050 Determination of Complete Application.
- 18A.20.060 Effects of Project Permit Application Revisions.
- 18A.20.070 Approval and Appeal Authorities.
- 18A.20.080 Review and Appeal Authorities.
- 18A.20.090 Permit Review Time Periods.
- 18A.20.100 Expiration of Approvals.
- 18A.20.110 Licenses and Building Permits.
- 18A.20.120 Certificate of Occupancy.
- 18A.20.130 Annexed Land.
- 18A.20.140 Transfer of Development Rights.

○ Part II Nonconforming Uses and Structures (200–299)

- 18A.20.200 Purpose.
- 18A.20.208 Applicability – Nonconformities.
- 18A.20.210 Preexisting, Nonconforming Lots of Record.
- 18A.20.218 Transfer of Ownership - Nonconforming Uses.
- 18A.20.220 Proof of Nonconformity.
- 18A.20.228 Nonconforming Uses.
- 18A.20.230 Nonconforming Structures.
- 18A.20.238 Repairs and Maintenance.
- 18A.20.240 Health or Safety Improvements.
- 18A.20.248 Nonconforming Parking Lots.
- 18A.20.250 Nonconforming Landscaped Areas.
- 18A.20.258 Conditional Uses.
- 18A.20.260 Administrative Determinations.
- 18A.20.268 Review of Administrative Decisions.

○ Part III Public Notice Requirements (300–399)

- 18A.20.300 Public Notice Procedures.
- 18A.20.310 Public Notice Framework.
- 18A.20.320 Use of Pierce County Assessor’s Office Taxpayer Data.
- 18A.20.330 Notice of Application – Permits.
- 18A.20.340 Notice of Public Hearing.

- 18A.20.350 Optional Public Notice.
  - 18A.20.360 Joint Public Hearings.
- 

- Part IV Appeals/Reconsiderations (400–499)
  - 18A.20.400 Specific Appeal Procedures.
  - 18A.20.410 Appeals to Hearing Examiner.
  - 18A.20.420 Reconsideration of Hearing Examiner Decision.
  - 18A.20.430 Clarification of Hearing Examiner Decision.
  - 18A.20.440 No Appeals to City Council.

- Preliminary draft of **Chapter 18A.30 (Discretionary Approvals)**

- Part I Comprehensive Plan Amendment
    - 18A.30.010 Type of action.
    - 18A.30.020 Plan amendment procedures – Comprehensive Plan.
    - 18A.30.030 Preliminary review and evaluation criteria – Comprehensive Plan.
    - 18A.30.040 Council approval of final docket – Comprehensive Plan.
    - 18A.30.050 Final review and evaluation – Comprehensive Plan.
    - 18A.30.060 Decision criteria for rezone requests – Comprehensive Plan.
    - 18A.30.070 Consistency between the zoning map and the future land use map – Comprehensive Plan.
    - 18A.30.080 Planning commission and city council review and adoption process.
    - 18A.30.090 Timing and exemptions.
    - 18A.30.100 Notice to county assessors of changes in Comprehensive Plan and development regulations.
- 

- Part II Conditional Use Permit
    - 18A.30.110 Purpose – conditional use permit.
    - 18A.30.120 Type of action.
    - 18A.30.130 Criteria for approval.
    - 18A.30.140 Conditions of approval.
    - 18A.30.150 Minor modifications to approved conditional use permits.
    - 18A.30.160 Time frame for submission of construction permits.
    - 18A.30.170 SEPA-exempt conditional uses
    - 18A.30.180 Compliance - conditional use permit.
    - 18A.30.190 Transferability - conditional use permit.
    - 18A.30.200 Essential public facilities - conditional use permit.
    - 18A.30.210 Special needs housing - conditional use permit.
- 

- Part III Cottage Housing

- 18A.30.220 Purpose – Cottage housing.
  - 18A.30.230 Applicability.
  - 18A.30.240 General provisions.
  - 18A.30.250 Development standards.
  - 18A.30.260 Open space.
  - 18A.30.270 Building design standards.
  - 18A.30.280 Parking.
  - 18A.30.290 Common area maintenance.
  - 18A.30.300 Low impact development standards.
  - 18A.30.310 Modifications.
- 

- PART IV Development Agreement
    - 18A.30.320 Authority.
    - 18A.30.330 Type of action.
    - 18A.30.340 Content.
    - 18A.30.350 Application.
    - 18A.30.360 Timing of public hearings.
    - 18A.30.370 Notice.
    - 18A.30.380 Staff report.
    - 18A.30.390 Public hearing and city council action.
    - 18A.30.400 Term of agreement.
- 

- PART V Land Use Review and Approval
    - 18A.30.410 Purpose – land use review and approval.
    - 18A.30.420 Type of action.
    - 18A.30.430 Applicability.
    - 18A.30.440 Delegation of authority.
    - 18A.30.450 Application –content.
    - 18A.30.460 Application – review process.
    - 18A.30.470 Site plan review log – summary of action.
    - 18A.30.480 Notification.
    - 18A.30.490 Reconsideration in response to SEPA comments.
    - 18A.30.500 Amendments.
    - 18A.30.510 Dedication, improvements and performance bond.
    - 18A.30.520 Final approval – expiration.
- 

- PART VI Planned Development
    - 18A.30.530 Purpose.
    - 18A.30.540 Application.
    - 18A.30.550 Public hearing.
    - 18A.30.560 Required findings.
    - 18A.30.570 Action of hearing examiner.
    - 18A.30.580 Minimum size.
    - 18A.30.590 Permitted modifications.
-

- 18A.30.600 Permitted residential density and lot sizes.
  - 18A.30.610 Required open space and recreation facilities.
  - 18A.30.620 Multiple zoning districts.
  - 18A.30.630 Binding site plan.
  - 18A.30.640 Phased development.
  - 18A.30.650 Required certificates and approvals.
  - 18A.30.660 Expiration.
- 

- PART VII Rezone and Text Amendment [To be updated per Council action on Quasi-Judicial Code changes]
    - 18A.30.670 Authority.
    - 18A.30.680 Site-specific rezone procedures.
    - 18A.30.690 Collection of rezone applications.
- 

- PART VIII Temporary Use Permit
    - 18A.30.700 Purpose.
    - 18A.30.710 Permitted uses.
    - 18A.30.720 Exemptions.
    - 18A.30.730 Application and authorization.
    - 18A.30.740 Standards.
    - 18A.30.750 Criteria for granting approval.
    - 18A.30.760 Decision.
- 

- PART IX Transitory Accommodations
    - 18A.30.770 Definition.
    - 18A.30.780 Process.
    - 18A.30.790 Site performance criteria.
    - 18A.30.800 Duration performance criteria.
    - 18A.30.810 Health and safety performance criteria.
    - 18A.30.820 Conduct and security performance criteria.
    - 18A.30.830 Other performance criteria.
- 

- PART X. Variances
    - 18A.30.840 Purpose.
    - 18A.30.850 Type of action.
    - 18A.30.860 Limitations.
    - 18A.30.870 Authority.
    - 18A.30.880 Required findings.
    - 18A.30.890 Additional conditions of approval.
- 

- PART XI. Unusual Uses



- 18A.30.900 Unusual uses.
- 18A.30.910 Type of action.

Please review these chapters prior to the February 20 Planning Commission meeting (remaining aware that they are still subject to change per stakeholder, city staff, and your input.) Commission members might also wish to review the comparison table of the current versus the new 18A organization provided as part of the February 6 meeting packet.

Thank you.

**Attachment A**

**CHAPTER 18A.10 - BASIC PROVISIONS**

Sections

18A.10.010	Title.
18A.10.020	Purpose.
18A.10.030	Scope.
18A.10.040	Rules of Construction.
18A.10.050	Computation of Time.
18A.10.060	Measurements.
18A.10.070	Interpretations.
18A.10.080	Authority and Comprehensive Plan Consistency.
18A.10.090	Comprehensive Plan Amendments.
18A.10.100	General Requirements.
18A.10.110	Severability.
18A.10.120	Establishment of Zoning Districts.
18A.10.130	Establishment of Overlay Districts.
18A.10.140	Establishment of Subareas.
18A.10.150	Adoption of City-wide and Subarea Zoning Maps.
18A.10.160	Boundaries – Administrative Determination.
18A.10.170	Boundaries – Planning Commission Recommendation – City Council Determination.
18A.10.180	Definitions.

**18A.10.010 Title.**

This title shall be known and may be cited as the “Lakewood Land Use and Development Code,” hereinafter referred to as “this title” or “this code.”

**18A.10.020 Purpose.**

The broad intent of the Lakewood Land Use and Development Code is to implement the City of Lakewood Comprehensive Plan, as now adopted and as may be subsequently amended, hereinafter referred to as the “Comprehensive Plan,” in order to protect and promote the health, safety, and general welfare of Lakewood’s citizens through regulation of the city’s physical development. The regulations included herein work toward overall public goals of providing for orderly development; lessening street congestion; promoting fire safety and public order; and ensuring the adequacy of public infrastructure such as transportation, water, sewer, schools, parks, and storm drainage.

The City strives to honor fundamental property rights and interests of private citizens while serving the overall good of the community as a whole. By their nature, land-use regulations call upon government to balance the community’s interests with those of individual property owners. This may result in regulations for the community good that serve to limit the use of property and prevent maximum financial profit for individuals. In allowing

reasonable use of property, this effect is not confiscatory and is a proper exercise of the police power afforded to government.

Specifically, this code is intended to:

- A. Foster improved relationships and harmony among land uses in order to overcome past, haphazard development patterns.
- B. Preserve the qualities of those residential neighborhoods that offer desirable living environments, while encouraging improvement to others whose character undermines good-quality living conditions.
- C. Diminish the reliance of current development patterns on automobile use and, over time, integrate multi-modal transportation opportunities into new development and redevelopment to support pedestrians, bicycles, and transit as well as cars.
- D. Provide for adequate public facilities and services to support land development.
- E. Promote social and economic well-being through integration of aesthetic, environmental, and economic values.
- F. Encourage protection of environmentally critical or historically significant resources.
- G. Ensure provision of adequate space for housing, commercial/industrial endeavors, and other activities necessary for public welfare.
- H. Provide for effective and equitable administration and enforcement of the regulations contained herein.

**18A.10.030 Scope.**

- A. Hereafter, no building or structure shall be erected, demolished, remodeled, reconstructed, altered, enlarged or relocated, and no building, structure or premises shall be used in the City of Lakewood except in compliance with the provisions of this title and then only after securing all required permits and licenses.
- B. Any building, structure or use lawfully existing at the time of passage of this title, although not in compliance therewith, may be maintained as provided for in LMC Chapter 18A.120, Part II, Nonconforming Uses and Structures.

**18A.10.040 Rules of Construction.**

- A. The word “person” includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

B. Words used in the present tense includes the future tense, and a singular number includes the plural, and a plural number includes the singular, unless the context clearly indicates the contrary.

C. The word “shall” is always mandatory and is not discretionary; the words “should” and “may” are permissive.

D. The word “used” or “occupied” includes the words “intended, designed or arranged to be used or occupied.”

E. The word “lot” includes the words “plot” and “parcel.”

F. The word “building” and “structure” refers to all structures or parts thereof.

G. Where terms are not specifically defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster’s Third New International Dictionary of the English Language, Unabridged, Copyright 1986, shall be considered in determining ordinarily accepted meanings.

H. When any provision of this title refers to or cites a section of federal law, the Revised Code of Washington (RCW), Washington Administrative Code (WAC), or Lakewood Municipal Code (LMC), and that section is later amended or superseded, this title shall be deemed amended to refer to the amended section or the section that most closely corresponds to the superseded section.

I. When any provision of this title refers to or cites a section heading within this title, that reference or cite refers to all applicable subsections of the entire section text under that heading.

J. Where the responsibility or authority is indicated in this title to lie with the Community and Economic Development Director (hereinafter referred to as Director), City Engineer, Building Official or other authorized agent of the City, responsibility or authority shall lie equally with that individual’s duly authorized designee.

K. When any provision of this title refers to “the City”, the phrase refers to the government entity of the City of Lakewood. When any provision of this title refers to “the City”, the phrase refers to the City of Lakewood as a location or place.

L. Illustrations found herein are not intended to supersede or replace written definitions, restrictions or standards.

### **18A.10.050 Computation of Time.**

For the purposes of this title, periods of time shall be computed as follows:

A. Day means calendar day and business day shall mean Monday through Friday unless it is an official City holiday or a holiday on which the United States Postal Service does not deliver mail.

B. The day that a notice is issued shall not be included in any applicable comment period.

C. The last day of the comment period shall be included unless it is a Saturday, Sunday, an official City holiday or a holiday on which the United States Postal Service does not deliver mail, then it also is excluded and the comment must be submitted by the next business day.

D. The day that a decision is issued shall not be included in the appeal period.

E. The last day of the appeal period shall be included unless it is a Saturday, Sunday, an official City holiday or a holiday on which the United States Postal Service does not deliver mail, then it also is excluded and the filing must be completed on the next business day, pursuant to RCW 35A.21.080.

F. The day an application is received is not included in the twenty-eight (28) day completeness review period. The twenty-eighth (28th) day is included in the twenty-eight (28) day completeness review period, unless that day is a Saturday, Sunday, an official City holiday or a holiday on which the United States Postal Service does not deliver mail.

#### **18A.10.060 Measurements.**

A. Distances. Distances shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property or parcel upon which the proposed use is to be located, to the nearest point of the parcel, buffer or wetland delineation line, ordinary high water line or the zoning district boundary line from which the proposed use is to be separated.

B. Fractions. When any measurement technique for determining the number of items required or allowed results in fractional figures, any fraction less than 0.5 of the applicable unit of measurement shall be disregarded, and fractions of 0.5 or larger shall require the next higher unit of measurement.

C. Value. All improvements to a building or a lot are cumulative. Where more than one (1) improvement has occurred or is proposed, whether said improvements occurred previously, simultaneously, or separately, the cumulative value of all improvements made shall be the measurement used for the value of improvements.

D. Density. See LMC Section 18A.50.110.

E. Net buildable area. “Net buildable area” means gross land area, measured in acres, minus land area in roads and other rights-of-way, surface storm water retention/detention/water quality facilities, critical areas, critical area buffers, and land dedicated to the city.

**18A.10.070 Interpretations.**

A. The Director shall review and resolve any questions involving the proper interpretation or application of the provisions of this title and other City plans, codes, regulations and standards related to project permits that may be requested by any property owner, tenant, government officer, department, board, council or commission affected. The Director’s decision shall be in keeping with the spirit and intent of this title and of the Comprehensive Plan.

Requests for interpretations shall be made in writing and include cites to specific code section(s) needing interpretation as well as an explanation of the need for interpretation.

B. Classification of Use. Recognizing that there may be uses not specifically mentioned in this title, either because of advancing technology or any other reason, the Director may permit or condition such use if it is clearly evident that the use is in conformity with the designated principal uses of the district in which it is to be located.

Requests for classification of uses shall be made in writing and include cites to specific code section(s) needing interpretation as well as an explanation of the need for classification.

C. Record. A record shall be kept of all interpretations and rulings made by the Director; such decisions shall be used for future administration. The Director shall report decisions to the Planning Commission when it appears desirable and necessary to amend this title.

D. Minimum Requirements. When interpreting and applying the regulations of this Development Code, its provisions shall be the minimum requirements, unless otherwise stated.

E. Conflicts of Regulations. Except as otherwise specifically stated, where conflicts occur within this Development Code or between the provisions of this Development Code and the Building and Fire Codes or other regulations of the City, the more restrictive shall apply.

F. Conflicts with State Law. The provisions of this title shall not have the effect of authorizing any activities prohibited by State law or other ordinances of the City of Lakewood.

G. Official Zoning Map - Conflicts with LMC 18A Text. If any conflict occurs between the City of Lakewood Zoning Map and the text of this title, then the text of this title shall prevail.

**18A.10.080 Authority and Comprehensive Plan Consistency.**

This Development Code is a principal tool for implementing the goals and policies of the Lakewood Comprehensive Plan, pursuant to the mandated provisions of the Growth Management Act of 1990, RCW 58.17, Subdivision Act, State Environmental Policy Act, and other applicable State and local requirements. All development within the City incorporated boundary - and the urban growth area - shall be consistent with Lakewood's Comprehensive Plan.

The subdivision provisions of this Development Code are intended to supplement and implement RCW 58.17 and LMC Title 17, Subdivisions. If the provisions of this Development Code conflict with any provision of Revised Code of Washington (RCW) 58.17, the RCW shall prevail.

With the exception of discretionary permits as regulated in Chapter 18A.110, no land shall be subdivided or developed for any purpose which is not in conformance with the City of Lakewood Comprehensive Plan as well as any zoning ordinance or other applicable provisions of the Lakewood Municipal Code.

**18A.10.090 Comprehensive Plan Amendments.**

See LMC Chapter 18A.110, Part I governing Lakewood Comprehensive Plan updates and amendments.

**18A.10.100 General Requirements.**

A. Application. All land or structures shall be used and constructed in accordance with the regulations and requirements of this Development Code including obtaining applicable permits prior to initiation of use.

B. Conflicting permits and licenses to be voided. All permits or licenses shall be issued in conformance with the provisions of this Development Code. Any permit or license subsequently issued and in conflict with this Development Code shall be null and void.

The Community Development Director is authorized and empowered to revoke any permit issued by the Community Development Department issued in error or based on false or misleading information or upon failure of the permit holder thereof to comply with any provision or condition of this title.

C. Burden of proof. Except as otherwise provided herein or by prevailing law, each and every applicant shall bear the burden of demonstrating compliance with the provisions of this code.

**18A.10.110 Severability.** If any chapter, section, subsection, sentence, clause, or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not

affect the validity of the remaining portions of this code and each chapter, section, subsection, sentence, clause, or phrase thereof.

**18A.10.120 Establishment of Zoning Districts.**

A. In order to regulate the use of land and structures, the City is divided into the following land use zoning district classifications. The development potential of any individual property under these zoning classifications shall be based on the net buildable area of that property, and shall be further subject to the availability of necessary utilities, critical area regulations, impact mitigation and other applicable development policies, regulations and standards.

Parcels Containing Two or More Zoning Districts:

1. For parcels containing two or more zoning districts (“split zoning”), the location of the zoning district boundary shall be determined by the Director.
2. For parcels containing two or more zoning districts, the applicable regulations for each zoning district shall apply within the zoning district boundaries as identified on the Zoning Map.
3. When a zoning district boundary interferes with existing structures or setbacks, the Director may approve a minor adjustment of the boundary.

B. Each zoning district and the abbreviated designation suffix are listed below. See LMC Chapter 18A.40 for more details about each zoning district.

**Single-Family Residential Zoning Districts**

<b>Name</b>	<b>Symbol</b>
Residential 1	R1
Residential 2	R2
Residential 3	R3
Residential 4	R4

**Mixed Residential Zoning Districts**

<b>Name</b>	<b>Symbol</b>
Mixed Residential 1	MR1
Mixed Residential 2	MR2

**Multi-Family Zoning Districts**

<b>Name</b>	<b>Symbol</b>
Multifamily 1	MF1
Multifamily 2	MF2
Multifamily 3	MF3

**Neighborhood Business Zoning Districts**



<b>Name</b>	<b>Symbol</b>
Arterial Residential/Commercial	ARC
Neighborhood Commercial 1	NC1
Neighborhood Commercial 2	NC2

**Commercial Classifications**

<b>Name</b>	<b>Symbol</b>
Transit-Oriented Commercial	TOC
Central Business District	CBD
Commercial 1	C1
Commercial 2	C2
Commercial 3	C3

**Industrial Zoning Districts**

<b>Name</b>	<b>Symbol</b>
Industrial Business Park	IBP
Industrial 1	I1
Industrial 2	I2

**Military-Related Zoning Districts**

<b>Name</b>	<b>Symbol</b>
Military Lands	ML
Air Corridor 1	AC1
Air Corridor 2	AC2
Clear Zone	CZ

**Public/Institutional Zoning District**

<b>Name</b>	<b>Symbol</b>
Public/Institutional Zoning District	PI

**Open Space/Recreation Zoning Districts**

<b>Name</b>	<b>Symbol</b>
Open Space and Recreation 1	OSR1
Open Space and Recreation 2	OSR2

**18A.10.130 Establishment of Overlay Districts.**

A. An overlay district is a special purpose district that may be combined with any portion of any zone as appropriate to the purpose of the district. The regulations of an overlay district consist of additional sections of this title and additional standards. Some of these regulations are supplementary so that both the regulations of the overlay district and the zone apply, while in other cases the overlay district regulations preempt and override the regulations of the underlying zone. Where these regulations conflict, the overlay regulations shall control.

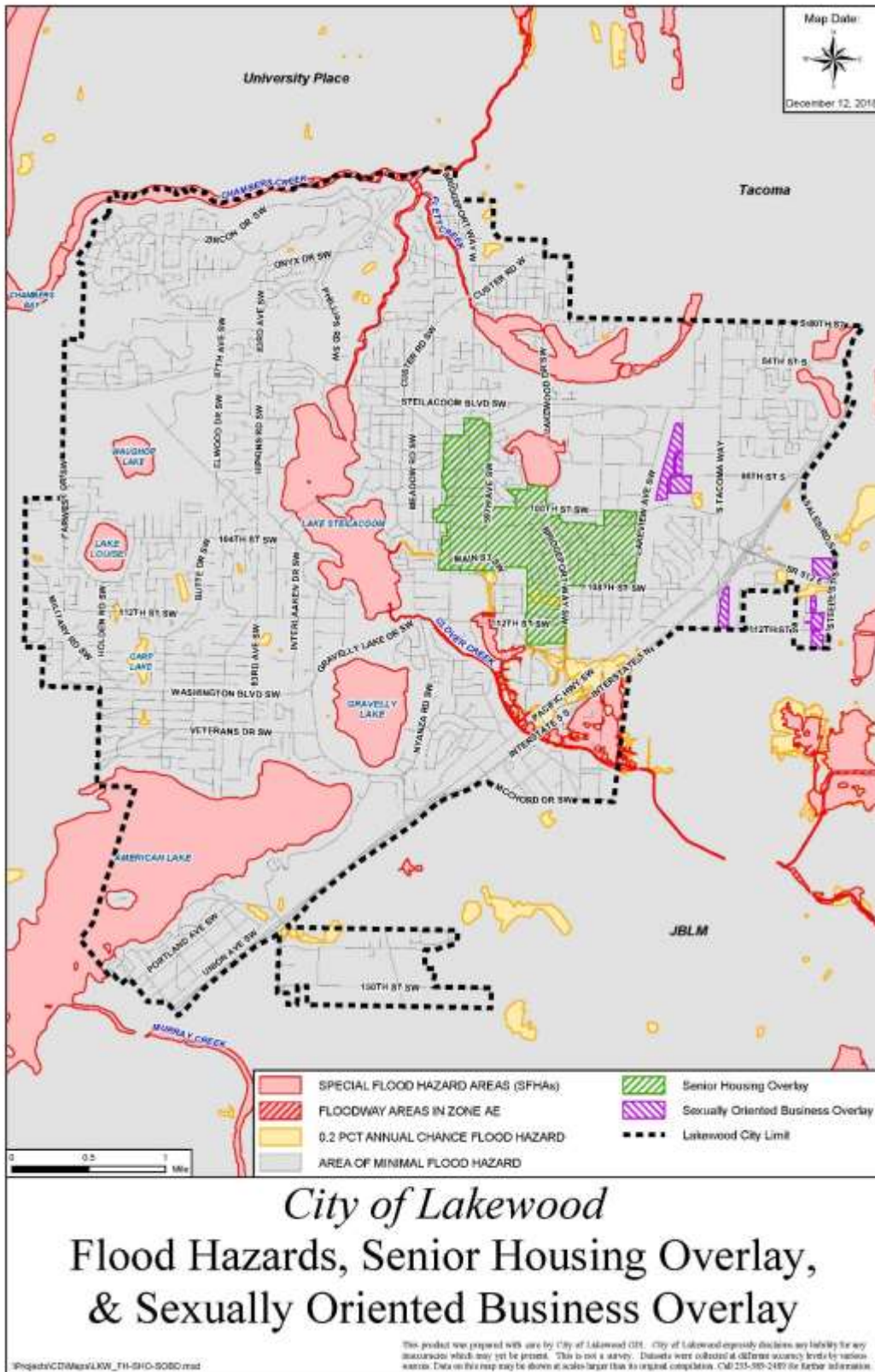
B. Each overlay district and the abbreviated designation suffix are listed below.

<b>Overlay District</b>	<b>Abbreviated Designation</b>
Flood Hazard Overlay	FHO
Senior Housing Overlay	SHO
Sexually Oriented Business Overlay	SOBO

The boundaries of overlay districts are shown on the City's official Overlay Districts Map, which is included below as Figure 1 and hereby adopted as part of this title, and are further described as follows:

1. The boundaries of the Flood Hazard Overlay (FHO) district shall be the areas of flood hazards identified by the Federal Insurance Administration in a report entitled: "The Flood Insurance Study for Pierce County, and Incorporated Areas" dated March 7, 2017, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this ordinance. (The Flood Insurance Study and the FIRM are on file at the City of Lakewood, 6000 Main Street SW, Lakewood, WA.) Lakewood Ordinance No. 659.
2. The boundaries of the Senior Housing Overlay (SHO) district shall be the areas shown as Figure 3.1, Senior Housing Overlay in the Lakewood Ordinance No. 237.
3. The boundaries of the Sexually Oriented Business Overlay (SOBO) district shall be the areas identified and described in Lakewood Ordinance No. 358 "Exhibit A".

Figure 1. Overlay Districts



**18A.10.140 Establishment of Subareas.**

Per RCW 36.70A.080(2), in order to plan for and regulate the use of land and structures in a manner which recognizes that residential neighborhoods and business areas within Lakewood vary one from another in desired character, subareas may be established as optional elements of the Comprehensive Plan and implementing zoning regulations may be adopted as a title of the Lakewood Municipal Code (LMC.)

Subarea plans are implemented in part through the adoption of use, development, performance, or procedural regulations specific to the subarea or to a portion or portions of the subarea. Regulations which are specific to a Subarea or portions of a subarea are located in the title of the LMC concerning the subarea.

The following subareas and subarea plans are established:

Name	Symbol	Code Title
Downtown Subarea Plan	DSAP	18B
This section is reserved	Reserved	Reserved

**18A.10.150 Adoption of City-wide and Subarea Zoning Maps.**

This title consists of text, illustrations, and city-wide zoning maps. Other LMC titles may contain subarea zoning maps. The purpose of the city-wide zoning map is to depict the exact boundaries of each zoning classification for the entire city. The purpose of the subarea zoning maps is to depict the exact boundaries of each zoning classification within each subarea and the exact boundaries of zoning districts in which regulations specific to that district apply. The city-wide and subarea zoning maps are adopted as part of ordinances codified in this and other applicable LMC titles, and may be amended from time to time by ordinance.

**18A.10.160 Boundaries – Administrative Determination.**

When uncertainty exists as to boundaries of any land use zoning classification on the zoning map, the Director following the administrative procedures of a Type I application as contained in **LMC 18A.120.080** [verify cite] shall make a determination as to the location of the boundary in question based on the following rules of construction:

- A. Where zone boundaries are indicated as approximately following the centerline of street, alley or highway right-of-way, the actual centerline shall be the boundary.
- B. Where zone boundaries are indicated as running approximately parallel to the centerline of the street right-of-way, the boundary line shall be construed to be parallel to the centerline of the street right-of-way.
- C. Where zone boundaries are indicated as approximately following the lot or tract lines, the actual lot or tract lines shall be construed to be the boundaries of such zone.

D. Where a zone boundary divides a tract in un-subdivided property, the location of such zone boundary, unless the same is indicated by dimensions thereon, shall be determined by use of the scale appearing on the zoning map.

E. Zone boundaries indicated as following shorelines shall be interpreted to follow such shorelines, and in the event of change in the shoreline, shall be interpreted as moving with the actual shoreline.

F. Where a public street or alley right-of-way is officially vacated or abandoned, the regulations applicable to the abutting property to which the vacated portion shall revert shall apply to such vacated or abandoned street or alley right-of-way.

G. Where the zone boundaries shown on the zoning map are inconsistent with the written legal descriptions of the zoning boundary as described in the implementing ordinance, the written legal description of the zoning boundary shall prevail.

**18A.10.170 Boundaries – Planning Commission Recommendation – City Council Determination. [VERIFY CITES; VERIFY WHETHER QUASI-JUDICIAL OR NOT]**

In case uncertainty exists in zoning designation lines that cannot be resolved by application of the administrative rules contained in LMC 18A.110.140, the Planning Commission shall recommend, and the City Council shall determine, the location of such zone boundaries. This action shall be considered a Type V-A or V-B application as outlined under LMC 18A.110.080. The Planning Commission and City Council shall base the determination of zone classification lines on the land use designation maps and policies of the Comprehensive Plan.

## **18A.10.180 Definitions.**

### **“A”**

---

“Absentee owner” means any real property owner(s) who customarily resides some place other than the property (whether an estate or business) in question.

“Abutting” means lots sharing common property lines.

“Access” means the way or means by which pedestrians and vehicles enter and leave property.

“Accessory building” means a detached subordinate building, the use of which is customarily incidental to that of the principal building or to the principal use of the land and which is located on the same tract with the principal building or use.

“Accessory dwelling unit (ADU)” means a habitable dwelling unit added to, created within, or detached from and on the same lot with a single-family dwelling that provides basic requirements for living, sleeping, eating, cooking, and sanitation.

“Accessory living quarters” means a single residential dwelling unit that is an attached or detached part of a commercial or manufacturing building, and which is incidental to the commercial or manufacturing use.

“Accessory retail or services” means retail sale of various products, or the provision of certain personal services within a health care, hotel, office, or industrial complex, to employees or customers; also includes retail that is incidental to a primary use conducted on the same premises where no more than 20 percent of the gross floor area is devoted to retail sales. Examples of these uses include pharmacies within hospitals and medical clinics; a prescription opticians’ shop within an ophthalmologist office; a gift shop and food service establishment within a hospital; gift and convenience stores and food service establishments within hotel, office and industrial complexes; barber and beauty shops within residential care facilities; and a manufacturing/ processing or artisan/craft product manufacturing use with an incidental retail sales area.

“Accessory structure” means a structure either attached or detached from a principal building and located on the same lot and which is customarily incidental and subordinate to the principal building or use.

“Adequate public facilities” means facilities which have the capacity to serve development without decreasing levels of service below locally established minimums.

“Adjacent” means lots located across a right-of-way, railroad or street, except limited access roads.

“Adult family home” means a residential home in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services (RCW 70.128.007.) Adult family homes shall serve those with functional limitations and are not intended to serve those with a history of violence, including sex offenses.

“Agriculture” means the use of land for growing crops for sale or consumption, other than for home agriculture. This use includes the accessory uses for sales, packing, treating, or storing the produce; provided, that the operation of the accessory use is clearly incidental to the agricultural activity. This definition includes but is not limited to produce farms, vineyards, and Christmas tree farms. This definition excludes nurseries and animal husbandry.

“Agriculture, clear zone” means uses which typically might be found and generally restricted rural environments, but which can pose viable, unobstructive land uses in portions of the urban environment that, by their nature, otherwise possess limited development potential. Examples include row crops, hay, alfalfa, and vineyards. Structures, whether temporary or permanent, tree farms, livestock grazing, and intensive animal husbandry prohibited.

“Agriculture, home,” means the accessory use of land to grow crops at a small or limited scale, for sale or consumption, when it occurs on the same site as the residence of the person primarily responsible for the crops.

“Alley” means a public way, paved or unpaved, which is intended to provide or which provides a roadway for vehicular and pedestrian access to abutting properties and is generally located to the rear or side of those properties, but not including such a public way in its natural and undeveloped state which cannot be used by vehicles.

“Alterations, structural” means a change or rearrangement of the structural parts of existing facilities, or an enlargement by extending the sides or increasing the height or depth, or the moving from one location to another. In buildings for business, commercial or similar uses, the installation or rearrangement of partitions affecting more than one-third of a single floor area shall be considered an alteration.

“Amateur radio station operators or receive-only antennae” means any tower or antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.

“Amendment” means a change in the wording, context, or substance of this code or the comprehensive plan; a change in the zoning map or comprehensive plan map; a change to the official controls of City code; or any change to a condition of approval or modification of a permit or plans reviewed or approved by the community and economic development director or hearing examiner.

“Antenna” means any exterior apparatus designed for telephonic, radio, data, Internet, or television communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing telecommunications services.

“Antenna height,” when referring to a tower or other Wireless Telecommunications Facilities (WTF), means the vertical distance measured from the finished grade of the parcel at the base of the tower pad or antenna support structure to the highest point of the structure even if said highest point is an antenna. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

“Antenna support structure” means any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

“Apartment” means a dwelling unit in a multifamily building.

"Apiary" means a site where hives of bees or hives are kept or found.

“Appeal” means a request for review of the community and economic development director's decision to the hearing examiner, and thereafter, to superior court.

“Applicant” means any person who makes an application to the City of Lakewood for a development permit.

“Area of shallow flooding” means a designated ‘AO’ or ‘AH’ zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident.

“Area of special flood hazard” means the land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year.

“Artisan shop” means a retail store selling art glass, ceramics, clothing, jewelry, paintings, sculpture, and other handcrafted items, where the facility includes an area for the crafting of the items being sold.

“Assisted Living Facility” means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing housing, basic services, and assuming general responsibility for the safety and well-being of the residents, and may also provide domiciliary care, consistent with chapter 142, Laws of 2004, to seven or more residents after July 1, 2000. However, an assisted living facility that is licensed for three to six residents prior to or on July 1, 2000 may maintain its assisted living facility license as long as it is continually licensed as an assisted living facility.



Assisted living facility shall not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations, including those subsidized by the department of housing and urban development (HUD).

“Auto and vehicle sales/rental” means a retail or wholesale establishment selling and/or renting automobiles, trucks and vans, trailers, motorcycles, and bicycles (bicycle sales are also included under “general retail”). May also include repair shops and the sales of parts and accessories, incidental to vehicle dealerships. Does not include: the sale of auto parts/accessories separate from a vehicle dealership (see “auto parts sales”); mobile home, recreational vehicle, or watercraft sales (see “mobile home, RV and boat sales”); tire recapping establishments (see “vehicle services”); businesses dealing exclusively in used parts, (see “recycling—scrap and dismantling yards”); or “gas stations,” which are separately defined.

“Auto parts sales” means stores that sell new automobile parts and accessories. Establishments that provide installation services are instead included under “Vehicle Services—Minor Maintenance/Repair.” Does not include tire recapping establishments, which are found under “Vehicle Services” or businesses dealing exclusively in used parts, which are included under “Recycling—Scrap and Dismantling Yards.”

“Auto repair.” See “Vehicle services.”

“Auto wrecking yard” means the dismantling or disassembling of motor vehicles or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts.

“Awning” means a shelter extending from the exterior wall of a building for the purpose of shielding a doorway or window from the elements and composed of non-rigid materials except for the supporting framework.

## **“B”**

---

“Basement” means that portion of a story partly underground and having at least one-half of its height or more than five feet below the adjoining finish grade.

“Bank, financial services” means financial institutions including: banks and trust companies; credit agencies; holding (but not primarily operating) companies; lending and thrift institutions; other investment companies; securities/commodity contract brokers and dealers; security and commodity exchanges; vehicle finance (equity) leasing agencies.

“Bar/tavern” means a business where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. Includes bars, taverns, pubs, and similar

establishments where any food service is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery or brew-pub, and other beverage tasting facilities, such as wine or beer tasting rooms. Does not include adult oriented businesses.

“Bay window” means a window that protrudes from the main exterior wall. Typically, the bay contains a surface that lies parallel to the exterior wall, and two (2) surfaces that extend perpendicular or diagonally from the exterior wall.

“Beach access, public or private” means trails or roads that provide access for the public to the beach.

“Bed and breakfast guest house” means a structure converted from a single-family dwelling or constructed to resemble a single-family dwelling, which structure provides lodging and meal service. Does not include room rental, which is separately defined (see “Boarding House”).

"Bees" means adult insects, eggs, larvae, pupae, or other immature stages of the species *Apis mellifera*.

“Binding site plan” means an alternative process established under RCW 58.17.035 for the division of land into lots, parcels or tracts. The binding site plan process includes a set of documents containing drawings to scale which:

- A. Identifies and shows the areas and location of all streets, roads, improvements, utilities and open spaces;
- B. Contains any other improvements, facilities or provisions required to be identified by the city, and contains inscriptions or attachments setting forth such appropriate limitations and conditions for use of the land as established by the city;
- C. Contains provisions requiring any development to conform with the site plan; and
- D. Contains provisions in which an applicant can offer for sale or lease and transfer of ownership certain kinds of lots, parcels or tracts.

“Blank walls” means walls subject to “blank wall” requirements are any ground-level wall over six feet in height measured from finished grade at the base of the wall, and longer than fifty (50) feet measured horizontally. A wall subject to the requirement does not have any significant building feature, such as a window, door, modulation or articulation, or other special wall treatment within that fifty (50) foot section.

“Block” means a group of lots, tracts or parcels within well-defined and fixed boundaries.

“Boarder” means a patron of a boardinghouse or roominghouse who is provided meals, with or without lodging, for compensation.

“Boarding house” means a dwelling or part of a dwelling where lodging is furnished for compensation to three or more persons living independently from each other. Meals may also be included.

“Boat ramp or launch” means An improved sloped surface extending from a shore land area into an aquatic area suitable for removing a boat from the water and launching a boat into the water from a trailer.

“Boathouse” means an accessory structure, an accessory portion of a principal structure, or a principal structure designed or used for the shelter or storage of boats.

Boundary line adjustment” means a division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.

“Brew pub” means a type of eating or drinking establishment that includes as an accessory use the production of malt liquors, regardless of alcohol content by volume, for consumption on the premises; except that sales for off-premises consumption, if not prohibited by other local ordinance or state or federal law, shall be allowed in specialty containers holding no more than one U.S. gallon (128 U.S. fluid ounces), commonly referred to as growlers. The area of the establishment devoted to the production of malts liquors shall not exceed five thousand (5,000) square feet. May include the distribution of beverages for consumption at other sites.

“Brewery – production” means an establishment which produces ales, beers, meads, hard ciders, and/or similar beverages on-site. Production Breweries are classified as a use which manufactures more than 15,000 barrels of beverage (all beverage types combined) annually. Breweries may also serve beverages on-site, and sell beverages for off-site consumption in keeping with the regulations of the Washington State Liquor and Cannabis Board and Bureau of Alcohol, Tobacco, and Firearms (ATF). In addition, uses which produce 15,000 barrels of beverage or less, but which do not meet one or more of the additional requirements to be considered a brew pub, are breweries.

"Brood Chamber" means a box devoted to the rearing of immature bees.

“Building” means a structure as defined in the International Building Code, as adopted by the city.

“Building and landscape materials sales” means a retail establishment selling hardware, lumber and other large building materials, plant materials, and other landscaping materials. Includes paint, wallpaper, glass, fixtures. Includes all these stores selling to the general public, even if contractor sales account for a major proportion of total sales. Establishments

primarily selling electrical, plumbing, heating, and air conditioning equipment and supplies are classified in “Warehouse, Wholesaling and Distribution.” Hardware stores are listed in the definition of “General Retail,” even if they sell some building materials.

“Building, attached” means a building or structure attached to another building or structure by an enclosed interior wall or walls and covered by a roof in common with both structures. A structure connected to another building or structure only by a roof or only by a wall is not considered attached.

“Building contractor, light” means businesses relating to the building trades including but not limited to: plumbing, heating, air conditioning; painting, paperhanging and decorating; electrical; carpentry and flooring; roofing and sheet metal. These types of businesses generally do not have heavy equipment or building materials stored outside.

“Building contractor, heavy” means businesses relating to the heavy construction trades including but not limited to: excavation work, highway and street construction; heavy construction, masonry and concrete work and water well drilling. These types of businesses generally have heavy equipment that may be stored outside.

“Building coverage” means the measurement of the gross footprint of all the structures, to include accessory and exempt structures, on a lot. The gross footprint includes all structural elements and projections of a building and includes, but is not limited to; eaves, projections, decks, balconies, elevated patios, breezeways, or canopies.

“Building, detached” means a building or structure sharing no common wall with another structure, and generally surrounded by open space on the same lot. A structure connected to another building or structure only by a roof or only by a wall is considered to be a detached building.

“Building division” means the building division of the community and economic development department.

“Building facade” means the visible wall surface, excluding the roof, of a building when viewed from a public right-of-way or adjacent property. If more than one (1) wall is predominately visible, the walls may be considered one (1) facade for the purposes of signage. A building facade is measured in gross square feet (gsf) and does not include roof area.

“Building front” means the face of the building which is parallel to an abutting street or the length of the projection of the wall of a building facing obliquely toward an abutting street when such projection is made perpendicular to the centerline of the street.

“Building height” means the height of a structure is measured from the average elevation of the undisturbed natural topography or pre-existing grade on a site to the highest point of the structure. The average elevation is determined by averaging the elevations of the undisturbed natural topography or the pre-existing grade at all corners or change in wall

plane of the proposed structure. An elevation benchmark shall be set on the lot, outside of the construction area, where it will remain undisturbed to allow verification of vertical elevation.

- A. Exceptions. Height standards shall not apply to religious assembly spires, flagpoles, belfries, and domes; chimneys, household antennas, ventilation stacks, or similar appurtenances that are required to be placed above the roof level and not intended for human occupancy.

“Building line” means a line projected along the exterior wall of a building nearest the property line.

“Building, nonconforming” means a building or structure which was lawful when established, but which does not now conform to the applicable development standards or to the zone in which it is located. A structure shall be considered established if it conformed to applicable zoning or building regulations at any time, or when it is built under permit, a permit for the structure has been granted and has not expired, or the structure is substantially underway in conformance with the IBC, as adopted by the city.

“Building Official” means the individual who manages the operations of the Building Division, including permitting, plan review and inspection of building construction projects; and is active in redevelopment efforts in support of the City of Lakewood's goals and objectives.

“Building, principal” means a building devoted to the principal use of the lot on which it is situated.

“Bulkhead” means a vertical wall of steel, timber or concrete used for erosion protection or as a retaining wall.

“Business” means the purchase, sale, or other transaction involving the handling or disposition of any article, service, substance, or commodity for livelihood or profit; or the management of office buildings, offices, recreational or amusement enterprises; or the maintenance and use of buildings, offices, structures, and premises by professions and trades rendering services.

“Business support service” means an establishment within a building that provides services to other businesses. Examples of these services include: blueprinting; computer-related services (rental, repair); copying and quick printing services; film processing and photofinishing (retail); mail boxes; outdoor advertising services; and security systems services.

“C”

---

“Cabinet shop” See “Furniture/fixtures manufacturing, cabinet shop.”

“Catering service” means a business that prepares and delivers food for consumption on the premises of a client. Does not include mobile food vendors. See also “Restaurant, Café, Coffee Shop.”

“Cemetery, mausoleum, columbarium” means an interment establishment engaged in subdividing property into cemetery lots and offering burial plots or air space for sale. Includes animal cemeteries; cemetery, mausoleum, crematorium and columbarium operations, and full-service mortuaries and funeral parlors accessory to a cemetery or columbarium.

“Child care facility” means a building or structure in which an agency, person or persons regularly provide care for a group of children for periods of less than twenty-four hours a day. Child day care facilities include family day care homes and child day care centers regulated by the Washington State Department of Social and Health Services, as presently defined in Chapter 74.15 RCW and WAC 388-73-422 and as such statute or regulations may hereafter be amended.

“Child day care” means the providing of supplemental parental care and supervision for a child or children who are not related to the provider on a regular basis for less than twenty-four hours per day and under license by the Washington State Department of Social and Health Services. The term does not include babysitting services of a casual, non-recurring nature or in the child’s own home. The term is further not intended to include cooperative, reciprocal child care by a group of parents in their respective homes.

“Child day care center” means a facility providing regularly scheduled care for a group of thirteen or more children within an age range of one month through twelve years, for periods of less than twenty-four hours.

“Club, lodge, private meeting hall” means a permanent, headquarters-type and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for: business associations; civic, social and fraternal organizations; labor unions and similar organizations; political organizations; professional membership organizations; and other membership organizations

“Co-housing” means a variety of housing options in which a community facility is included for the purpose of such things as communal meals, laundry, recreation or socialization, day care, and/or other functions supportive of voluntary communal living by an organized group. Examples include fraternity/sorority houses; intentional communities; and religious orders, whether or not in conjunction with a religious facility.

“Colony” means one hive and its contents, including bees, comb, and appliances.

“Commercial recreation facility – indoor” means establishments providing indoor amusement and entertainment services for a fee or admission charge, including: · bowling alleys; coin-operated amusement arcades; dance halls, clubs and ballrooms;

electronic game arcades (video games, pinball, etc.); ice skating and roller skating; and pool and billiard rooms as primary uses.

This use does not include adult oriented businesses, which are separately defined. Four or more electronic games or coin-operated amusements in any establishment, or a premises where 50 percent or more of the floor area is occupied by amusement devices, are considered an electronic game arcade as described above; three or fewer machines are not considered a land use separate from the primary use of the site.

“Commercial recreation facility – outdoor” means a facility for various outdoor recreational activities, where a fee is charged for use. Examples include: amusement and theme parks; go-cart tracks; golf driving ranges; miniature golf courses; and water slides.

May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, video game arcades, etc.

“Community center” means a multi-purpose meeting and recreational facility typically consisting of one or more meeting or multi-purpose rooms, kitchen and/or outdoor barbecue facilities that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc.

“Community and Economic Development Director” (see also “Director”) means the individual who performs responsible professional, administrative and supervisory work in directing and leading the activities of the Community and Economic Development Department.

“Comprehensive Plan” means a map or maps and descriptive text covering objectives, principles, and standards used to develop the comprehensive plan. The comprehensive plan shall include a plan, scheme, or design for each of the following at a minimum: a land use element; a housing element; a capital facilities plan element; a utilities element; a transportation element that implements, and is consistent with, the land use element; an economic development element; and a park and recreation element. The plan shall be an internally consistent document, and all elements shall be consistent with the future land use map.

“Conference/Convention Facility” means one or more structures accommodating multiple assembly, meeting, and/or exhibit rooms, and related support facilities (e.g., kitchens, offices, etc.).

“Continuing care retirement community” means an entity that agrees to provide continuing care to a resident under a residency agreement. “Continuing care retirement community” does not include an assisted living facility licensed under Chapter 18.20 RCW that does not directly, or through a contractual arrangement with a separately owned and incorporated skilled nursing facility, offer or provide services under Chapter 74.42 RCW.

“Construction/heavy equipment sales and rental” means retail establishments selling or renting construction, farm, or other heavy equipment. Examples include cranes, earth moving equipment, tractors, combines, heavy trucks, etc.

“Convenience store” means a type of general retail store which carries a range of merchandise oriented to convenience and/or travelers’ shopping needs.

**“D”**

---

Daycare center,” “nursery school,” or “preschool” means any type of group daycare programs, for children or adults, including nursery schools for children under minimum age for education in public schools, parent cooperative nursery schools, playgroups for preschool children, covering afterschool care for school children, and programs which provide organized learning and education experiences, provided such establishments are licensed by the state and conducted in accordance with state requirements. For the purpose of this title the following shall also apply to daycare center, nursery schools or preschools:

“Babysitting care” means a dwelling which provides occasional custodial care to children, for periods of less than 24 hours, who do not reside within the residence of the person providing the care. Babysitting care is not necessarily provided in exchange for compensation.

“Family day care” means a state-licensed day care provider as defined in RCW 74.15.020, who regularly provides day care for not more than 12 children in the provider’s home in the family living quarters.

“Daycare center” means a place, other than the home of the provider, which provides regular custodial care for 12 or more children, for periods of less than 24 hours.

“Preschool/nursery school” means a place, other than the home of the provider, which provides regular custodial care and/or organized learning and educational experiences for children.

“Director” means the Community and Economic Development Director or their designee.

“Distillery” means a place where liquor is manufactured.

DOC means the Washington State Department of Corrections.

DOE means the Washington State Department of Ecology.

DOT (or WSDOT) means the Washington State Department of Transportation.

DNS means Determination of Non-Significance.

DS means Determination of Significance.



DSHS means the Washington State Department of Social and Health Services.

DUA means dwelling units per gross acre.

**“E”**

---

“EIS” means Environmental Impact Study.

“Electric vehicle” means any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on board for motive purpose.

“Electric vehicle charging station” means a public or private parking space located together with a battery charging station that has as its primary purpose the transfer of electric energy to a battery or other storage device in an electric vehicle.

“Electric vehicle infrastructure” means structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations and battery changing stations.

“Electric vehicle parking space” means any marked parking space that identifies the use to be exclusively for the parking of an electric vehicle.

“Electrical distribution substation” means an assembly of equipment designed to receive energy from a high-voltage distribution supply system to convert it to a form suitable for local distribution and distribute the energy to feeders through switching equipment designed to protect the service from the effect of faults.

“Enhanced Services Facility” means a facility that provides treatment and services to persons for whom acute inpatient treatment is not medically necessary and who have been determined by the Department of Social and Health Services to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues. (RCW 70.97.010)

“Essential public facilities” 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.

“Equipment rental” means a service establishment that may offer a wide variety of household and business equipment, furniture, and materials for rental. Does not include construction equipment rental, which is separately defined.

**“F”**

---

“Family” means individuals domiciled together in one dwelling unit and who are cooking and living together as a single household, but the number of individuals occupying the dwelling unit shall not exceed the occupant load of the structure, as the same is calculated under the city’s adopted building code.

“FEMA” means the Federal Emergency Management Agency.

“FIRM” means the Federal Insurance Rate Map.

“FHBM” means the Flood Hazard Boundary Map.

“Fuel dealer” means a retail trade establishment that sells fuel oil, butane, propane and liquefied petroleum gas (LPG), bottled or in bulk, to consumers.

“Funeral home.” See “Mortuary, funeral home.”

“Furniture/fixtures manufacturing, cabinet shop” means manufacturers producing: wood and metal household furniture and appliances; bedsprings and mattresses; all types of office furniture and public building furniture and partitions, shelving, lockers and store furniture; and miscellaneous drapery hardware, window blinds and shades. Includes furniture re-upholstering businesses, wood and cabinet shops, but not sawmills or planing mills.

“Furniture, furnishings, appliance/equipment store” means a store that primarily sells the following products and related services, that may also provide incidental repair services: computers and computer equipment; draperies; floor coverings; Furniture; glass and chinaware; home appliances; home furnishings; home sound systems; interior decorating materials and services; large musical instruments; lawn furniture; movable spas and hot tubs; office furniture; other household electrical and gas appliances; outdoor furniture; refrigerators; stoves; and televisions and home theater systems.

## “G”

---

“Gas station” means a retail business selling gasoline and/or other motor vehicle fuels, and related products. Where allowed by Division 2 (Zoning Districts and Allowable Land Uses), a gas station may also include a “Convenience Store,” “Vehicle Services,” and/or trailer rental (“Auto and Vehicle Sales/Rental”), which are separately defined.

“General retail” means stores and shops selling many lines of merchandise. Examples of these stores and lines of merchandise include: antique stores; art galleries, retail; art supplies, including framing services; auction rooms; bicycles; books, magazines, and newspapers; cameras and photographic supplies; clothing, shoes, and accessories; collectibles (cards, coins, comics, stamps, etc.); convenience stores; department stores; drug stores and pharmacies; dry goods; fabrics and sewing supplies; florists and houseplant stores (indoor sales only - outdoor sales are “Building and Landscape Materials Sales”) hardware stores; hobby materials; jewelry; luggage and leather goods; musical instruments, parts and accessories; optics (prescription glasses, sunglasses, etc.); orthopedic

supplies; recreation equipment, bicycle and kayak rentals; religious goods; small wares; specialty shops, including specialty food shops such as seafood or meat markets, retail bakeries, and similar uses; sporting goods and equipment; stationery; toys and games; and variety stores.

“Golf course, country club” means golf courses, and accessory facilities and uses including: clubhouses with bar and restaurant, locker and shower facilities; driving ranges; “pro shops” for on-site sales of golfing equipment; and golf cart storage and sales facilities.

“Grocery store” means a retail or wholesale store that primarily sells food, including canned and frozen foods, fresh fruits and vegetables, and fresh (raw) and prepared meats, fish, and poultry.

1. Large stores are defined as 20,000 square feet in size or greater. Also includes a grocery store use located within a larger format retail store where an area 20,000 square feet in size or greater is primarily devoted to the sale of food.
2. Small stores are defined as less than 20,000 square feet in size. Also includes a grocery store use located within a larger format retail store where an area less than 20,000 square feet in size is primarily devoted to the sale of food.

"Group home" means group residential environments for people with disabilities, mental or physical. There are five types of group homes:

1. "Type 1 Group Home" means publicly or privately operated living accommodations for related or unrelated individuals having handicaps, subject to compliance with all applicable federal, state, and/or local licensing requirements. For the purposes hereof, "handicap" shall mean a physical or mental impairment which substantially limits one or more of the person's major life activities, a record of having such an impairment, or being regarded as having such an impairment; however, the term does not include current, illegal use of or an addiction to a controlled substance. A Type 1 Group Home includes an "Adult Family Home."
2. "Type 2 Group Home" means publicly or privately operated living accommodations for related or unrelated individuals such as group homes for children, group homes providing an alternate residential setting for families in crisis, and other groups not listed in Type 1, 3, 4, or 5 Group Home Residential use types; all subject to compliance with all applicable federal, state, and/or local licensing requirements. There are three levels of Type 2 Group Homes:
  - a. Level 1: A group home with a maximum of seven residents, plus resident staff.
  - b. Level 2: A group home with a maximum of 10 residents, plus resident staff.
  - c. Level 3: A group home with more than 10 residents, plus resident staff.

3. "Type 3 Group Home" means publicly or privately operated living accommodations for juveniles under the jurisdiction of DSHS and/or the criminal justice system, including state-licensed group care homes or halfway houses for juveniles which provide residence in lieu of incarceration, and halfway houses providing residence to juveniles needing correction or for juveniles selected to participate in state-operated minimum security facilities as defined in RCW 72.05.150, as hereafter may be amended. A community facility as defined in RCW 72.05.020(1), as hereafter may be amended, is considered to constitute a Type 3 Group Home. All are subject to compliance with all applicable federal, state, and/or local licensing and other requirements. There are three levels of Type 3 Group Homes:
  - a. Level 1: A group home with a maximum of eight residents, plus resident staff.
  - b. Level 2: A group home with a maximum of 12 residents, plus resident staff.
  - c. Level 3: A group home with more than 12 residents, plus resident staff.
4. "Type 4 Group Home" means publicly or privately operated living accommodations for adults under the jurisdiction of the criminal justice system who have entered a pre- or post-charging diversion program or have been selected to participate in state-operated work/training release or other similar programs as provided in Chapters 137-56 and 137-57 WAC, as may hereafter be amended. All are subject to compliance with all applicable federal, state, and/or local licensing and other requirements.
5. "Type 5 Group Home" means a secure community transition facility as defined in RCW 71.09.101(14), as hereafter may be amended, which is a residential facility that provides supervision and security for people who have completed their criminal sentences for sexually violent offenses but who remain subject to additional requirements for sexually violent predators under Chapter 71.09 RCW, as hereafter may be amended. All are subject to compliance with all applicable federal, state, and/or local licensing and other regulations.

"GSF" means gross square feet.

## **"H"**

---

"Handcraft industries, small-scale manufacturing" means establishments manufacturing and/or assembling small products primarily by hand, including jewelry, pottery and other ceramics, as well as small glass and metal art and craft products, and taxidermists. Also includes manufacturing establishments producing small products not classified in another major manufacturing group, including: brooms and brushes; buttons, costume novelties; jewelry; musical instruments; pens, pencils, and other office and artists' materials; sporting and athletic goods; toys; etc.

"Health/fitness facility" (Does not include adult entertainment businesses.)

1. Commercial. A commercial, for profit, fitness center, gymnasium, health and athletic club, which may include any of the following: sauna, spa or hot tub facilities; indoor tennis, handball, racquetball, archery and shooting ranges and other indoor sports activities.
2. Quasi-public. A not-for-profit fitness center, gymnasium, health and athletic club, which may include any of the following: sauna, spa or hot tub facilities; weight training facilities; swimming pools; exercise pools; basketball, handball, racquetball, and/or other sport courts; meeting rooms and related facilities; and which would provide on-site as well as outreach community activities such as, but not limited to day care, camps, educational assistance programs, swimming instruction and/or other fitness programs.

"Hive" means a manufactured receptacle or container prepared for the use of bees, that includes movable frames, combs, and substances deposited into the hive by bees.

"Home occupation" means the conduct of a business within a dwelling unit or residential site, employing only the occupants of the dwelling, with the business activity being subordinate to the residential use of the property.

"Hospice care center" means a homelike, non-institutional facility where services such as symptom and pain management are provided to terminally ill individuals and emotional, spiritual, and bereavement support is offered for the individual and family, and which are regulated under Chapter 70.127 RCW, subject to compliance with all appropriate federal, state, and/or local licensing requirements.

"Hostel" means a building or portion thereof designed or used for supervised lodging and often containing shared sleeping areas.

"Hotel or Motel" means a facility with guest rooms or suites, with or without kitchen facilities, rented to the general public for transient lodging. Hotels typically include a variety of services in addition to lodging; for example, restaurants, meeting facilities, personal services, etc. Also includes accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, accessory retail uses, etc.

"I"

---

"IBC" means the International Building Code.

"Intercity high-speed ground transportation" means is a mode of transportation that can best link cities 100 to 500 miles apart. There are three types: accelerated rail service, high-speed rail systems, and magnetic levitation.

"Intensification of use" means a change in the use of a structure or site, where the new use is required by this Zoning Code to have more off-street parking spaces than the former use;

or a change in the operating characteristics of a use (for example, hours of operation), which generates more activity on the site.

“Intermediate care facility” means a facility that provides, on a regular basis, assistance with one or more Activities of Daily Living (“ADL”) such as bathing, toileting, dressing, personal hygiene, mobility, transferring, and eating, including persons with functional disabilities, needing health-related care and services, but who do not require the degree of care and treatment that a hospital or extended care facility provides. Such facility requires a state boarding home license. This use includes assisted living facilities, but does not include adult family homes, staffed residential homes, or residential care facilities for youth.

---

**“K”**

“Kennel, animal boarding” means a commercial facility for the grooming, keeping, boarding or maintaining of five or more dogs (four months of age or older), or five or more cats except for dogs or cats for sale in pet shops, or patients in animal hospitals. See also “Medical Service—Veterinary Clinic, Animal Hospital.”

---

**“L”**

“Laboratory - Medical, Analytical” means a facility for testing, analysis, and/or research. Examples of this use include medical labs, soils and materials testing labs, and forensic labs.

“Laundry, dry cleaning plant” means a service establishment engaged primarily in high volume laundry and garment services, including: carpet and upholstery cleaners; diaper services; dry cleaning and garment pressing; commercial laundries; linen supply. These facilities may include accessory customer pick-up facilities. These facilities do not include coin-operated laundries or dry cleaning pick-up stores without dry cleaning equipment; see “Personal Services.”

“Library, museum” means a public or quasi-public facility, examples of which include: aquariums, arboretums, art galleries and exhibitions, botanical gardens, historic sites and exhibits, libraries, museums, planetariums, and zoos. May also include accessory retail uses such as a gift/book shop, restaurant, etc.

“Live/work and work/live units” mean an integrated housing unit and working space, occupied and utilized by a single household in a structure, either single-family or multi-family, that has been designed or structurally modified to accommodate joint residential occupancy and work activity, and which includes:

1. Complete kitchen space and sanitary facilities in compliance with the City building code; and
2. Working space reserved for and regularly used by one or more occupants of the unit.

The difference between live/work and work/live units is that the “work” component of a live/work unit is secondary to its residential use, and may include only commercial activities and pursuits that are compatible with the character of a quiet residential environment, while the work component of a work/live unit is the primary use, to which the residential component is secondary.

“LMC” means the Lakewood Municipal Code.

“Lot” means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area, and developed or built upon as a unit. The term shall include “tracts” or “parcels”.

“Lot area” means the total area, in gross square feet (gsf), within the lot lines of a lot, excluding right-of-way. For the purposes of flood regulations, any portion of a lot lying below the ordinary high water mark or lawfully constructed bulkhead shall not be included in a lot area calculation.

“Lot coverage” means the area of a lot covered by a building or buildings, expressed as a percentage of the total lot area.

“Lot depth” means the perpendicular distance measured from the mid-point of the front lot line to the mid-point of the opposite lot line.

“Lot line” means the property line bounding a lot.

“Lot line, front” means normally, the property line separating the lot from the street, other than an alley, from which access is provided to the lot. For the purpose of establishing setback requirements, orientation of the dwelling unit shall be independent of access to the parcel. In the case of a corner lot, the front lot line shall be the property line with the narrow dimension adjacent to the street.

“Lot line, rear” means the lot line which is opposite and most distant from the front lot line and which is in the same plane and runs parallel to the front lot.

“Lot line, interior” means any property line which is neither a front nor a rear lot line.

“Lot of record” means a lot that is part of a subdivision recorded, pursuant to statute, with the Pierce County Auditor, or a legally created lot under state and local subdivision regulations in effect at the time of creation or a lot described by metes and bounds, the description of which has been so recorded.

“Lot, buildable” means a legal lot which is proposed for use in compliance with this title, and has received approval of the water supply and sewage disposal method as appropriate to such use.

“Lot, corner” means a lot of which at least two (2) adjacent sides abut streets other than alleys.

“Lot, cul-de-sac” means a lot which has a front lot line contiguous with the outer radius of the turn-around portion of a cul-de-sac.

“Lot, flag” means a flag lot is surrounded by abutting lots with an extended access way to a street right-of-way.

“Lot, interior” means a lot other than a corner lot.

“Lot, through” means an interior lot having frontage on two (2) streets, and which is not a corner lot.

“Lot width” means the average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot lines, except that portion of a flag lot that usually forms an extended access way to a street right-of-way.

## “M”

---

“Maintenance service, client site services” means base facilities for various businesses that provide services on the premises of their clients. Includes gardening, janitorial, pest control, water and smoke damage recovery, and similar services; and appliance, computer, electronics, elevator, equipment, HVAC, instrument, plumbing, and other maintenance and repair services not operating from a retail establishment that sells the products being maintained or repaired. When these services operate from a retail establishment that sells the products being maintained or repaired, they are instead considered part of the retail use.

“Manufactured Home, Designated” means a manufactured home constructed after June 15, 1976, in accordance with federal requirements for manufactured housing (meeting HUD code) which:

- A. Is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;
- B. Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch; and
- C. Has exterior siding similar in appearance to siding materials commonly used on site built single family homes built according to the International Building Code.

“Manufactured Home, New” means any manufactured home required to be titled under RCW Title 46, which has not been previously titled to a retail purchaser, and is not a “used mobile home” as defined in RCW 82.45.032(2).

“Manufactured home park” means an area of land, in single ownership, on which ground space is made available for the location of manufactured homes. Said manufactured homes would generally be owned by the occupants who pay a fee for the use of the ground space. The manufactured home units remain essentially portable and may be moved.



“Manufacturing, assembling and packaging – light intensity” means a facility accommodating manufacturing processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Light manufacturing also includes other establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the intensity, scale, and/or characteristics of operation and materials used are unlikely to result in externalities or effects on surrounding land uses or the community because they can be controlled within the building. Examples of light intensity manufacturing uses include, but are not limited to, clothing and fabric product manufacturing and food and beverage products.

“Manufacturing, assembling and packaging – medium intensity” means a facility accommodating manufacturing processes that involve and/or produce building materials, fabricated metal products, machinery, and/or transportation equipment, where the intensity, scale, and/or characteristics of operation and materials used are greater than those classified under “Manufacturing, assembling and packaging – light intensity,” but where externalities or effects on surrounding land uses or the community can typically be reduced or avoided when appropriately located and developed. Examples of medium intensity manufacturing uses include lumber and wood product manufacturing and stone and cut stone product manufacturing.

“Manufacturing, assembling and packaging – heavy intensity” means a facility accommodating manufacturing processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment, where the intensity, scale, and/or characteristics of operation and materials used have the potential to result in externalities or effects on surrounding land uses or the community. Examples of heavy intensity manufacturing uses include, but are not limited to, chemical products manufacturing, paving and roofing materials manufacturing and glass products manufacturing.

“MDNS” means Mitigated Determination of Non-Significance.

“Medical service - clinic, urgent care” means a facility other than a hospital, where medical, mental health, surgical and other personal health services are provided exclusively on an outpatient basis by a group of physicians working in cooperation and sharing the same facilities. Typically operates beyond standard medical office hours and may provide emergency treatment. May include educational aspects such as medical instruction and/or training as well as house a lab, radiology, pharmacy, rehabilitation, and other similar services as accessory uses. Does not include hospitals. Counseling services by other than medical doctors or psychiatrists are included under “Offices—Professional.”

“Medical service - doctor office” means a facility other than a hospital where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis, by primary practitioners and/or medical specialists by appointment (for example, chiropractors, dentists, medical doctors, optometrists, prescription opticians,

psychiatrists, etc.). May include a lab, radiology, pharmacy, rehabilitation, and other similar services as accessory uses. Counseling services by other than medical doctors or psychiatrists are included under “Offices - Professional.”

“Medical service – hospital” means hospitals and similar facilities engaged primarily in providing diagnostic services, and extensive medical treatment, including surgical and other hospital services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care.

“Medical service -integrated medical health center” means a medical wellness center which may be directly affiliated with a hospital or medical complex, membership based, and open to the public as well as referred patients. In addition to exam rooms and physician offices, the facility provides courses and equipment for physical rehabilitation, fitness, and wellness. Examples include, but are not limited to, cardiac and pulmonary rehabilitation, cardio and strength training, aquatics, integrative classes and training for all wellness therapy, stress management, esthetician, nutritional counseling, and physical, occupational and speech therapy. These facilities are staffed in part by medical professionals including physicians.

“Medical service - lab” means a facility intended for the examination of clinical specimens for the purpose of providing information such as diagnosis, prognosis, prevention, or treatment of disease to improve the health of a patient. Examples of these uses include: dental laboratories (crown and denture manufacturing, etc.); and medical laboratories (blood and tissue testing, x-ray, CT scanning, etc., but not research (see “Laboratory”).)

“Medical service - veterinary clinic, animal hospital” means an office and indoor medical treatment facilities used by veterinarians, including large and small animal veterinary clinics, and animal hospitals. May include a lab, radiology, pharmacy, rehabilitation, temporary boarding of sick animals, and other similar services as accessory uses. See also “Kennel.”

“Metal Products Fabrication, Machine and Welding Shops” means an establishment engaged in the production and/or assembly of metal parts, including the production of metal cabinets and enclosures, cans and shipping containers, doors and gates, duct work, forgings and stampings, hardware and tools, plumbing fixtures and products, tanks, towers, and similar products. Examples of these uses include: · blacksmith and welding shops; plating, stripping, and coating shops; sheet metal shops; and machine shops and boiler shops.

“Microbrewery or a small craft brewery” means a production facility that manufactures beer. A microbrewery may sell beer of its own production at retail for on- and off-premises consumption, and may act as a distributor for beer of its own production.

“Minimum security institution” means publicly or privately operated living accommodations for juveniles with less serious behavior problems under the jurisdiction of DSHS and/or the criminal justice system, including state-licensed group care homes or

halfway houses for juveniles which provide residence in lieu of incarceration, and halfway houses providing residence to juveniles needing correction or for juveniles selected to participate in state-operated minimum security facilities as defined in RCW 72.05.150, as hereafter may be amended. A Community Facility as defined in RCW 72.05.020(1), as hereafter may be amended, is considered to mean a Minimum Security Institution. All are subject to compliance with all applicable federal, state, and/or local licensing and other requirements.

“Mixed use” means a project that combines both commercial and residential uses, where the residential component is typically located above the commercial. This Code allows for multiple, horizontally and/or vertically attached dwelling units combined vertically with and above an allowed commercial use. Commercial uses shall comprise a minimum of fifty (50) percent of the square footage of the ground floor in multistory buildings and shall align with the building’s street frontage.

“Mobile food vendor” means any person who owns, controls, manages or is otherwise engaged in the business of selling prepared, pre-packaged or unprepared, unpackaged food or foodstuffs of any kind, from a mobile vending facility on private property.

“Mobile food vending facility” means a mobile food vending facility shall mean any vehicle, trailer, pushcart, motorized food wagon, stand, tent or structure not affixed to a permanent foundation, with or without wheels, which may be moved from one place to another under its own power or by other means.

“Mobile Home” means a transportable, factory-built home designed and intended to be used as a year round dwelling, and built prior to the enactment of the Federal Manufactured Housing and Safety Standards Act of 1974. Mobile homes are no longer built, and placement in this community is prohibited.

“Mobile home park” means any site that is planned and improved to accommodate two or more mobile homes used for residential purposes, or on which two or more mobile home lots are rented, leased, or held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate mobile homes used for residential purposes. May include a common storage area for recreational vehicles owned by residents only.

“Mobile home, RV, and boat sales” means retail establishments selling both mobile home dwelling units, and/or various vehicles and watercraft for recreational uses. Includes the sales of boats, campers and camper shells, jet skis, mobile homes, motor homes, and travel trailers.

“Mortuary, funeral homes and parlors” means where deceased are prepared for burial or cremation, funeral services may be conducted, and cremation may occur.

“N”

---

“Natural resource extraction/recovery” means land used for timber harvesting consistent with the Forest Practices Act or silviculture, mineral extraction, or natural resource recovery such as mining reclamation or reforestation. This definition excludes Christmas tree farms, nurseries, and agriculture.

“Natural topography” or “natural grade” means the elevation of a parcel of land prior to any human modification of the contours and physiography.

“Net buildable area” means gross land area, measured in acres, minus land area in roads and other rights-of-way, surface storm water retention/detention/water quality facilities, critical areas, critical area buffers, and land dedicated to the city.

“New construction” means structures for which the start of construction commenced on or after the effective date of applicable development regulations.

“Night club” means a facility serving alcoholic beverages for on-site consumption, and providing entertainment, examples of which include live music and/or dancing, comedy, etc.

“Nonconforming building.” See “Building, nonconforming.”

“Nonconforming use” means a use of land or a structure which was lawful when established and which does not now conform to the use regulations of the zone in which it is located. A use shall be considered established if it conformed to applicable zoning regulations at any time, or when it has commenced under permit, a permit for the use has been granted and has not expired, or a structure to be occupied by the use is substantially underway as defined in the International Building Code.

“Notice of Application” means a written notice that a complete project permit application has been received by the City, including, at minimum, the date of application, the date of the notice of completeness of the application, the date of the notice of application, a description of the proposed project, a list of permits requested by the applicant, a list of any studies requested by the City, identification of other permits known to be required for the project but not requested by the applicant, identification of existing environmental documents evaluating the proposal, the location where the application and any studies can be reviewed, a statement of the public comment period, a statement of the right of any person to comment on the application, receive notice of and participate in any hearing, request a copy of the decision once made, and of any appeal rights, the date, time, place, and type of any hearing scheduled at the date of the notice, a statement of the preliminary determination of those development regulations that will be used for project impact mitigation, a statement of whether an environmental impact statement will be required and a statement of any preliminary determination of consistency with plans and regulations of the City. (See RCW 36.70B.110)

“Notice of Decision” means a written notice of the City’s decision on a project permit application, including a statement of any SEPA threshold determination and any administrative appeals procedures.

"Nucleus Apiary" means an apiary registered with the Shasta County Agricultural Commissioner's Office with nucleus colonies primarily used for queen bee rearing and mating.

"Nursing home" means any home, place or institution which operates or maintains facilities providing convalescent or chronic care, or both, for a period in excess of twenty-four consecutive hours for three or more patients not related by blood or marriage to the operator, who by reason of illness or infirmity, are unable properly to care for themselves. Convalescent and chronic care may include but not be limited to any or all procedures commonly employed in waiting on the sick, such as administration of medicines, preparation of special diets, giving of bedside nursing care, application of dressings and bandages, and carrying out of treatment prescribed by a duly licensed practitioner of the healing arts. It may also include care of mentally incompetent persons. It may also include community-based care.

Nothing in this definition shall be construed to include general hospitals or other places which provide care and treatment for the acutely ill and maintain and operate facilities for major surgery or obstetrics, or both. Nothing in this definition shall be construed to include any assisted living facility, guest home, hotel or related institution which is held forth to the public as providing, and which is operated to give only board, room and laundry to persons not in need of medical or nursing treatment or supervision except in the case of temporary acute illness. The mere designation by the operator of any place or institution as a hospital, sanitarium, or any other similar name, which does not provide care for the acutely ill and maintain and operate facilities for major surgery or obstetrics, or both, shall not exclude such place or institution from the provisions of this chapter: PROVIDED, That any nursing home providing psychiatric treatment shall, with respect to patients receiving such treatment, comply with the provisions of RCW 71.12.560 and 71.12.570.

“Nursing home” means a facility which provides short- or long-term care for seniors and other persons who need skilled nursing care but do not require hospitalization.

**“O”**

---

“Occupancy” means the purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

“Occupant” means a person, family, group, or organization who is using or living in a particular building, apartment, or room.

“Office – business services” means establishments providing direct services to customers. Examples of these uses include employment agencies, holistic practitioners, insurance agent

offices, massage therapists (licensed, therapeutic, non-sexual), real estate offices, travel agencies, utility company offices, etc. This use does not include “Bank, Financial Services,” which are separately defined.

“Office – government” means office facilities for Federal, State and local agencies.

“Office – processing” means office-type facilities characterized by high employee densities, and occupied by businesses engaged in information processing, and other computer-dependent and/or telecommunications-based activities. Processing businesses operate in such a manner that customers need not come to the site, and do not come to the site on a regular basis.

“Office – professional” means office-type facilities occupied by businesses that provide professional services and/or engaged in the production of intellectual property.

“Official controls” means legislatively defined and enacted policies, standards, precise detailed maps and other criteria, all of which control the physical development of the city, and are the means of translating into regulations and ordinances all or any part of the general objectives of the comprehensive plan.

“Official map” means maps that show the designation, location and boundaries of the various districts which have been adopted and made a part of this title.

“Open space” means land and/or water area with its surface predominantly open to the sky or predominantly undeveloped, which is set aside to serve the purposes of providing park and recreation opportunities, conserving valuable natural resources, and structuring urban development and form.

“Overlay district” means a defined geographic area where a set of development regulations are established to achieve a specific public purpose. These regulations are in addition to those of the underlying zoning district.

“Outdoor storage” means the keeping of materials, supplies, equipment, machinery and vehicles which are not currently licensed or capable to operate on public streets or highways, in an open, uncovered yard or non-walled buildings. This definition includes junkyards, but excludes outdoor sales.

“Owner” means the owner of record of real property as shown on the tax rolls of the Pierce County Assessor, or a person who is purchasing a piece of property under contract.

“Owner occupant” means a property owner, as reflected in title records that makes his or her legal residence at the site, and actually resides at the site more than six months out of any given year.

“Ownership” means the existence of legal equitable title to land.

**“P”**

---

“Parcel” means a lot or plot of land proposed or created in accordance with this Code or prior subdivision ordinance and state law and intended as a unit for the purpose, whether immediate or future, of transfer of ownership. The external boundaries existing as of the date of incorporation of the city of Lakewood shall be used to establish what is a parcel for the purposes of this code. For parcels which have not been conveyed since that date, the legal description used in the conveyance closest to that date shall control.

“Park” means an open space use in which an area is permanently dedicated to recreational, aesthetic, educational or cultural use and generally is characterized by its natural and landscape features. A park may be used for both passive and active forms of recreation; however, its distinctive feature is the opportunity offered for passive recreation such as walking, sitting and watching.

“Park and ride lot” means areas where commuters park private vehicles and either join together in carpools or vanpools, or board public transit at a stop located in the park and ride lot.

“Parking facility” means a surface parking area or parking garage.

“Party of record” means any person, group, association or corporation who has standing to initiate an administrative appeal of a decision on an approval or permit. A party of record is either:

- A. The applicant;
- B. Any person who testified at the public hearing;
- C. Any person who submitted written comments concerning the subject application (excluding persons who have only signed petitions or mechanically produced form letters).

“Person” means any individual, association, firm, partnership, corporation, society, joint stock company, organization, state, all political subdivisions of a state, or legal entity either public or private, or any agents, and assigns of such individual, association, firm, partnership, corporation, society, joint stock company, organization, state, all political subdivisions of a state, or legal entity.

“Personal services” means establishments providing non-medical services to individuals as a primary use. Examples of these uses include: barber and beauty shops; clothing rental; dry cleaning pick-up stores with limited equipment; home electronics and small appliance repair; laundromats (self-service laundries); locksmiths; pet grooming with no boarding; shoe repair shops; tailors; and tanning salons.

These uses may also include accessory retail sales of products related to the services provided.

“Personal services – restricted” means personal services that may tend to have a potentially offensive effect upon surrounding areas and which may need to be dispersed to minimize their adverse impacts. Examples of these uses include: check cashing stores; fortune tellers; palm and card readers; psychics; soup kitchens; spas and hot tubs for hourly rental; tattoo and body piercing services.

“Petroleum product storage and distribution” means a facility for the bulk storage and wholesale distribution of gasoline, diesel fuel, and/or other fuels and petroleum products.

“Pharmacy” means a retail store that primarily sells prescription drugs that may also sell non-prescription drugs and medical supplies, other health care products, and a limited variety of convenience items.

“Physically feasible” means an alternative action or design which can be physically accomplished within the boundaries of the applicant’s property which, to the maximum extent possible, avoids intrusion into critical areas or their buffers; except that utility corridors and roadways should be planned comprehensively to consider their entire route and to avoid intrusions into critical areas or their buffers to the maximum extent possible.

“Places of assembly” means a facility providing for the assembly of persons for interaction as a primary use, including community centers, and religious institutions, also referred to as place(s) of assembly for worship. Place(s) of assembly do not include community education or art centers, schools, instructional centers, daycare facilities, family day shelters, conservatories, convention centers, libraries, museums, residential dwellings, recreational and entertainment facilities, theaters, shelters, or social service distribution facilities which fall under separate definitions in this Code.

“Pre-Zoning” means establishing a zoning classification into which a property will fall upon incorporation.

“Printing and publishing” means an establishment engaged in printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals; establishments manufacturing business forms and binding devices. “Quick printing” services are included in the definition of “Business Support Services.”

“Produce stand” means a temporary business location that sells raw, unprocessed fruits, vegetables, nuts, and other produce in its raw or natural state, and that is accessory to an on-site or adjacent agricultural operation.

“Project permit” means any land use or environmental permit or approval required from the city for a project action, including but not limited to: subdivisions, binding site plans, conditional uses, shoreline substantial development permits, and site plan review.



“Public facilities” include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities and schools. (See RCW 36.70A.040(12).)

“Public services” include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection and other governmental services. (See RCW 36.70A.040(13).)

“Public works director” means the director of the Lakewood public works department and/or his/her designee.

## “R”

---

“RCW” means the Revised Code of Washington.

“Real property” means any fee, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements thereon and easements, rights and interests appurtenant thereto which by custom, usage, or law pass with a conveyance of land although not described in the contract of sale or instrument of conveyance. “Real property” includes parcels, with or without upper or lower boundaries, and spaces that may be filled with air or water. (RCW 64.34.020(32).)

“Reasonable accommodation” Any person claiming to have a handicap or disability, or someone acting on his or her behalf, who wishes to be excused from an otherwise applicable requirement of this Land Use Code under the Fair Housing Amendments Act of 1988, 42 USC 3604(f)(3)(b), or the Washington Law Against Discrimination, Chapter 49.60 RCW, must provide the Director with verifiable documentation of handicap or disability eligibility and need for accommodation. The Director shall act promptly on the request for accommodation. If handicap or disability eligibility and need for accommodation are demonstrated, the Director shall approve an accommodation which may include granting an exception to the provisions of this Code. The Director shall not charge any fee for responding to such a request. The Director’s decision shall constitute final action by the City on the request for accommodation, and review of that decision will be available only in court. An action seeking such review must be filed not more than 21 days after the Director’s decision.

“Recycling facility – processing facility” means a structure or enclosed space used for the collection and processing of recyclable materials for shipment, or to an end-user’s specifications, by such means as baling, briquetting, cleaning, compacting, crushing, flattening, grinding, mechanical sorting, re-manufacturing and shredding.

“Redevelopable land” means commercially zoned properties containing buildings of questionable economic viability; it includes developed commercial properties which had a land value greater than the value of improvements.

“Repair service—equipment, large appliances, etc.” means a service and facility where various types of electrical, electronic, and mechanical equipment, and home and business appliances are repaired and/or maintained away from the site of the equipment owner. Does not include vehicle repair or maintenance, which is included under “Vehicle Services,” the repair of small home appliances and electronic equipment, which is included under “Personal Services,” or maintenance and repair activities that occur on the client’s site, which are included under “Maintenance Service—Client Site Services.”

“Residential use” means the occupancy of permanent living quarters, as opposed to temporary accommodations for travelers, and certain accessory uses to such living quarters.

“Research and development (R&D)” means a facility for scientific research, and the design, development and testing of electrical, electronic, magnetic, optical and computer and telecommunications components in advance of product manufacturing, and the assembly of related products from parts produced off-site, where the manufacturing activity is secondary to the research and development activities. Includes pharmaceutical, chemical and biotechnology research and development. Does not include soils and other materials testing laboratories (see “Laboratory”), or medical laboratories (see “Medical Service—Clinic, Lab, Doctor Office”).

“Research – scientific (small scale)” means the gathering of data, information, and facts for the advancement of knowledge. Small scale research is generally sponsored by an organization or government agency. Facilities are excluded. The uses have only limited impact on the underlying use of the site or environment as determined by the Director. Such scientific research may be conducted in a in the field only, may include investigation, testing or experimentation for study, research education, mitigation, and demonstration of scientific principles and is temporary in nature.

“Restaurant, café, coffee shop” means a retail business selling ready-to-eat food and/or beverages for on- or off-premises consumption. These include:

“Restaurant, café, coffee shop – counter ordering” means an establishment where customers are served from a walk-up ordering counter for either on- or off-premises consumption. This includes retail bakeries such as a donut shop, pastry shop, cake shop, and similar types of businesses.

“Restaurant, café, coffee shop –drive-through services” means a facility where food may be purchased by motorists without leaving their vehicles.

“Restaurant, café, coffee shop –table service” means an establishment where customers are served food at their tables for on-premises consumption, which may also provide food for take-out.

“Restaurant, café, coffee chop – outdoor dining” means an establishment with either counter ordering or table service that provides a defined outdoor area for eating, which may be a sidewalk café where allowed by a Right-of-Way Permit.

“Restaurant, café, coffee shop – serving alcohol” means any of the above restaurants, cafés, coffee shops which serve beer, wine or distilled spirits with the meal.

“Retail Stores” means a place of business usually owned and operated by a retailer, but sometimes owned and operated by a manufacturer or by someone other than a retailer, in which merchandise is sold primarily to ultimate consumers; includes bookstores and the sale of antiques and collectibles.

“Retail uses” means businesses which sell goods, typically in small quantities, to the ultimate consumers.

“Rezone” means an amendment to the city’s official land use map to change the zone classification of an area.

## **“S”**

---

“Scale” means the spatial relationship among structures along a street or block front, including height, bulk and yard relationships.

“Screening” means the partial or total obscuring of view by a continuous fence, wall, evergreen hedge, trees or combination thereof.

“Scrap and dismantling yards” means outdoor establishments primarily engaged in assembling, breaking up, sorting, and the temporary storage and distribution of recyclable or reusable scrap and waste materials, including auto wreckers engaged in dismantling automobiles for scrap, and the incidental wholesale or retail sales of parts from those vehicles. Includes processing facilities for recycling. Does not include: places where these activities are conducted entirely within buildings; secondhand stores; the sale of operative used cars; or landfills or other waste disposal sites.

“Second hand store” means a retail store that buys and sell used products, including clothing, furniture and household goods, jewelry, appliances, musical instruments, business machines and office equipment, tools, motors, machines, instruments, firearms, or any similar secondhand articles or objects. Includes pawnshops. Does not include bookstores (“Retail Stores”); secondhand farm and construction equipment (“Construction Heavy Equipment Sales and Rental”); junk dealers, or scrap/dismantling yards (“Recycling Facilities—Scrap and Dismantling Yards”); the sale of antiques and collectibles (“Retail Stores”); or the sale of cars and other used vehicles (“Auto and Vehicle Sales/Rental”).

“Secure community transition facility” is defined in RCW 71.09.101(14), as hereafter may be amended, which is a residential facility that provides supervision and security for people who have completed their criminal sentences for sexually violent offenses but who remain subject to additional requirements for sexually violent predators under Chapter 71.09 RCW, as hereafter may be amended. All are subject to compliance with all applicable federal, state, and/or local licensing and other regulations.

“SEPA” means the State Environmental Policy Act, Chapter 43.21C RCW.

“Service station” See “Gas Station,” and “Vehicle Services.”

“Shopping center” means a primarily retail commercial site with three or more separate businesses sharing common pedestrian and parking areas.

“Single Family Residential” means a building designed for and/or occupied exclusively by one family. Also includes factory-built, modular housing units, constructed in compliance with the International Construction Code (ICC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety.

“Social service organization” means a public or quasi-public establishment providing social and/or rehabilitation services, serving persons with social or personal problems requiring special services, the handicapped, and the otherwise disadvantaged. Examples of this land use include: counseling centers, welfare offices, job counseling and training centers, or vocational rehabilitation agencies. Includes organizations soliciting funds to be used directly for these and related services, and establishments engaged in community improvement and neighborhood development. Does not include day-care services, emergency shelters and transitional housing, or “Residential Care,” which are separately defined; or soup kitchens.

“Solid waste transfer station” means a staffed, fixed supplemental facility used by persons and route collection vehicles to deposit solid wastes into transfer trailers for transportation to a disposal site.

“Small craft distillery” means a production facility that manufactures distilled spirits that can contract distilled spirits for, and sell distilled spirits to, holders of distillery licenses, manufacturer’s licenses and grower’s licenses.

“Specialized senior housing” means coordinated developments of two or more owned or rented site-built single-family dwellings, mobile homes, apartments and/or condominiums which contain specialized design features and/or on-site services and activities to accommodate the mobility, nutrition, medical, social and/or other needs of persons 62 years of age or older and/or disabled persons. Domestic partners of and/or caregivers for such persons may also reside in such developments and need not be 62 years of age or older and/or disabled. Individual residences which contain design features to aid mobility but which are not part of a coordinated development are not included in this definition.

“Sports and active recreation facility” means public and private facilities for various outdoor sports and other types of recreation, where the facilities are oriented more toward participants than spectators. Examples include: athletic/sport fields (e.g., baseball, football, softball, soccer); health and athletic club outdoor facilities; skateboard parks; swimming pools; and tennis and other sport courts (e.g., handball, squash).

“Sound Transit facility” means any lands, interest in land, air rights over lands, and improvements thereto including vessel terminals, and any equipment, vehicles, vessels,

trains, stations, designated passenger waiting areas, and other components necessary to support the Sound Transit system. Examples include: parking lots; parking garages; pedestrian walkways and bridges; buses; trains; and rail maintenance facilities.

“Start of construction” means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

“Stop work order” means an order issued by the city to immediately cease all construction, excavation, grading, building, and other unauthorized activity occurring on a site.

“Storage - accessory” means the indoor storage of materials accessory and incidental to a primary use is not considered a land use separate from the primary use.

“Storage – outdoor” means the storage of various materials outside of a structure other than fencing, either as an accessory or primary use.

“Storage - personal storage facility” means structures containing generally small, individual, compartmentalized stalls or lockers rented as individual storage spaces and characterized by low parking demand. Also referred to as a “mini-warehouse.”

“Storage, incidental outside” means the stockpiling, warehousing, or other storage of any material, equipment or object which is incidental to the activities regularly conducted on the premises, not exceeding five percent of the gross floor area of the principal structure on the site, which is screened on sides and located in such a manner so as to harmonize with neighboring structures and other surroundings.

“Story” means that portion of a building between the upper surface of any floor and the upper surface of any floor located above, except that the highest story is that portion of the structure between the highest floor surface and the ceiling or roof located above.

“Street” means a public or private thoroughfare which affords the principal means of access to abutting properties.

“Structure” means a combination of materials constructed or erected which has permanent location on the ground or attached to something having permanent location on the ground, not to include fences less than six feet high, or paved areas, but which does include a gas or liquid storage tank that is principally above ground.

“Studio - art, dance, martial arts, music, etc.” means a small scale facility, typically accommodating one group of students at a time, in no more than one instructional space. Larger facilities are included under the definition of “Schools.” Examples of these facilities include: individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; gymnastics instruction, and aerobics and gymnastics studios with no other fitness facilities or equipment. Also includes production studios for individual musicians, painters, sculptors, photographers, and other artists.

“Subarea” means a geographical subdivision of the city of Lakewood for comprehensive planning and zoning purposes.

“Subarea Plan” means an optional element of the comprehensive plan including map or maps and descriptive text covering objectives, principles, and standards for a subarea of the City. The subarea plan shall be consistent with the comprehensive plan. A subarea may be implemented through use, development, performance, or procedural regulations and zoning.

"Super" means a box with frames in which honey is produced.

“Survey and monument” means to locate and monument the boundaries of a partition parcel, road right-of-way or road easement.

“Swap meet” means and includes, but is not limited to, arrangements whereby a person or persons sell, lease, rent, offer or donate to one or more persons a place or area where such persons may offer or display second-hand or junk items. “Swap meet includes, but is not limited to, flea markets, bazaars, and rummage sales.

## “T”

---

“Tasting room” means a location separate from, or on the same site as, the production/manufacturing site, that allows customers to taste samples of wine, beer, or other alcoholic beverage and has a state of Washington issued liquor license to operate a tasting room. In addition to sampling of alcoholic beverages, a tasting room may include retail sales for off-premises consumption. The tasting room facility must be directly affiliated with a minimum of one brewery/winery. The tasting room may be operated within a brewery/winery facility, accessory to separate on-site use or as a stand-alone retail use. Tasting rooms must comply with standard retail land use hours of operation (7:00 a.m. to 11:00 p.m.).

“Theater, auditorium” means an indoor facility for public assembly and group entertainment, other than sporting events. Examples of these facilities include: civic theaters, and facilities for “live” theater and concerts; movie theaters; and similar public assembly facilities.

“Transit-oriented development” means development that is centered around and coordinated in its use and design with a transit station or other transit facility. Transit-oriented development includes a variety of different planning and development projects, but is typically compact, medium to high density, mixed-use development within walking distance of transit with a focus on pedestrian orientation and creating neighborhood centers, places and/or gathering spots.

“U”

---

"Undeveloped land" means land with no added improvements, such as landscaping, drainage, streets, utilities, and structures. May also be referred to as raw land.

“Underdeveloped land” includes large parcels within residential districts that have with an existing single-family residence that may be further subdivided and existing single-family residences that are located within commercial districts

“Urban growth” means growth that makes intensive use of land for the location of buildings, structures and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources.

“Urban growth areas” means those areas designated by a county pursuant to RCW 36.70A.110.

“Use” or “land use” means an activity occurring on an area of land.

“Use, accessory” means a use incidental and subordinate to the principal use and located on the same lot or in the same building as the principal use.

“Use, conditional” means a use requiring approval by a permit under the criteria in LMC Chapter 18A.110.

“Use, essential” means that use for the preservation or promotion of which the use zone was created, and to which all other permitted uses are subordinate.

“Use, nonconforming.” See “Nonconforming use.”

“Use, permitted” means any use authorized or permitted alone or in conjunction with another use in a specified zone and subject to the limitations of the regulations of such zone.

“Use, primary or principal” means the use for which a lot, structure or building, or the major portion thereof, is designed or actually employed.

“Use, secondary, incidental or accessory” means a minor or secondary use for which a lot, structure or building is designed or employed in conjunction with, but subordinate to its primary use.

“Utilities” means electrical, natural gas, potable water, storm water, waste water and telecommunications conveyance, collection and distribution systems.

**“V”**

---

“Variance” means a modification of regulations of this title when authorized by the hearing examiner after finding that the literal application of the provisions of this title would cause undue and unnecessary hardship in view of certain facts and conditions applying to a specific parcel of property.

“Vehicle services” means the repair, servicing, alteration, restoration, towing, painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. This use includes the following categories.

1. Major repair/body work. These establishments include major engine and/or transmission repair and/or building, towing, collision repair, other body work, and painting services; tire recapping.
2. Minor maintenance/repair. Minor facilities providing limited repair and maintenance services. Examples include: air conditioning service and repair, attended and self-service car washes, detailing services, engine tune-up, installation and/or repair of engine accessories such as starters, muffler and radiator shops, paintless dent repair, quick-lube services, smog shops, tire and battery sales and installation (not including recapping), windshield repair, and similar routine maintenance and repair services.

Does not include automobile parking (see “Parking Facilities”), repair shops that are part of a vehicle dealership on the same site (see “Auto and Vehicle Sales and Rental,” and “Mobile Home, RV, and Boat Sales”); gas stations, which are separately defined; or dismantling yards, which are included under “Recycling Facility—Scrap and Dismantling Yards.”

“Vehicle storage” means a service facility for the long-term storage of operative cars, trucks, buses, recreational vehicles, and other motor vehicles, for clients. Does not include dismantling yards.

**“W”**

---

“WAC” means the Washington Administrative Code.

“Warehouse retail” means a retail store that emphasizes the packaging and sale of products in large quantities or volumes, some at discounted prices, where products are typically displayed in their original shipping containers. Sites and buildings are usually large and industrial in character. Patrons may be required to pay membership fees.



“Warehouse” means a facility for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include mini-storage facilities offered for rent or lease to the general public (see “Storage—Personal Storage Facilities”); warehouse facilities in which the primary purpose of storage is for wholesaling and distribution (see “Wholesaling and Distribution”).

“Western State Hospital Campus” means a hospital and surrounding buildings, wards, and related and/or accessory structures, operated and maintained by the state of Washington for the care and treatment of patients affected with acute or chronic mental illness. The campus also includes the operation of an existing child study and treatment center and forensic center, both of which are located on the grounds of the Western State Hospital campus. Mental health facilities, the child study and treatment center, and the forensic center are subject to the public facilities master plan development standards listed in **LMC BLANK** [Current 18A.30.850 – deleted? Moved? New 18A.50.080?] as hereafter may be amended. The mental health facilities located at Western State Hospital are considered to constitute an Essential Public Facility.

“Wholesaling and distribution” means establishments engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Also includes storage, processing, packaging, and shipping facilities for mail order and e-commerce retail establishments.

“Wildlife preserve or sanctuary” means a site with wildlife habitat and other environmental resources intended to be preserved in their natural state.

“Wine production facility” means a facility licensed as a domestic winery under RCW 66.04.010 where fruit or other ingredients are processed (i.e., crushed, fermented, blended, aged, and/or stored, bottled) and may include as incidental and/or accessory to the principal use a tasting room, food and beverage service, places of public/private assembly and/or retail sales area.

“Work/training release facility means publicly or privately operated living accommodations for adults under the jurisdiction of the criminal justice system who have entered a pre- or post-charging diversion program or have been selected to participate in state-operated work/training release or other similar programs as provided in Chapters 137-56 and -57 WAC, as may hereafter be amended. All are subject to compliance with all applicable federal, state, and/or local licensing and other requirements.

## “Y”

---

“Yard” means an unoccupied space open to the sky, on the same lot with a building or structure.

“Yard, front” means an open space abutting a street, access easement or tract, extending across the full width or length of the lot, the required depth of which shall be measured horizontally and at right angles from the front lot line to a line parallel thereto on the lot.

“Yard, rear” means an open space extending across the full width of the lot between the principal building and the rear lot line. The depth of the rear yard shall be measured horizontally at right angles from the nearest point of the rear lot line towards the nearest part of the principal building.

“Yard, side” means an open space between the principal building and side lot line extending from the front yard to the rear yard. The width of the side yard shall be measured horizontally and at right angles from the nearest point of a side lot line towards the nearest part of the principal building.

## “Z”

---

“Zero lot line development” means a development in which structures are permitted to be located on a lot line without any setback.

“Zoning certification” means a certificate, issued prior to a project permit, stating that the proposed use is in accordance with the requirements and standards of this title

“Zoning classification” means a designation assigned to one or more properties which prescribes allowed uses and development and operating standards for those uses.

“Zoning” means the regulation of the use of private lands or the manner of construction related thereto in the interest of implementing the goals and policies of the comprehensive plan. Zoning includes both the division of land into separate and distinct zoning districts, and the specific use and development standards that regulate development. Such regulation shall also govern those public and quasi-public land use and buildings that provide for government activities and proprietary type services for the community benefit, except as prohibited by law. State and federal governmental activities are strongly encouraged to cooperate under these regulations to secure harmonious city development. There are several general categories of zoning used in this code:

- a. Residential zoning can include single family or any number of other designations which cover homes, apartments, duplexes, trailer parks, co-ops, and condominiums. Residential zoning can cover issues such as whether mobile homes can be placed on property, and the number of structures allowed on certain property.
- b. Commercial zoning usually has several categories and is dependent upon the business use of the property, and often the number of business patrons. Office buildings, shopping centers, nightclubs, hotels, certain warehouses, some apartment complexes -- as well as vacant land that has the potential for development into these types of buildings -- can all be zoned as commercial. Almost any kind of real estate,

other than single-family home and single-family lots, can be considered commercial real estate.

- c. Like commercial zoning, industrial zoning can be specific to the type of business. Environmental factors including noise concerns usually are issues in determining into which industrial level a business falls. Manufacturing plants and many storage facilities have industrial zoning. Certain business -- such as airports -- may warrant their own designation.

Industrial zoning is often dependent upon the amount of lot coverage (which is the land area covered by all buildings on a lot) and building height. Additionally, set-back requirements are often higher for industrial zoned properties.

DRAFT

**Attachment B**

**CHAPTER 18A.20 - ADMINISTRATION**

Part I Administration (000-199)

Sections

18A.20.010	Applications.
18A.20.020	Application Fees.
18A.20.030	Complete Application Form and Content.
18A.20.040	Consolidated Review of Applications.
18A.20.050	Determination of Complete Application.
18A.20.060	Effects of Project Permit Application Revisions.
18A.20.070	Approval and Appeal Authorities.
18A.20.080	Review and Appeal Authorities.
18A.20.090	Permit Review Time Periods.
18A.20.100	Expiration of Approvals.
18A.20.110	Licenses and Building Permits.
18A.20.120	Certificate of Occupancy.
18A.20.130	Annexed Land.
18A.20.140	Transfer of Development Rights.

---

Part II Nonconforming Uses and Structures (200–299)

Sections

18A.20.200	Purpose.
18A.20.208	Applicability – Nonconformities.
18A.20.210	Preexisting, Nonconforming Lots of Record.
18A.20.218	Transfer of Ownership - Nonconforming Uses.
18A.20.220	Proof of Nonconformity.
18A.20.228	Nonconforming Uses.
18A.20.230	Nonconforming Structures.
18A.20.238	Repairs and Maintenance.
18A.20.240	Health or Safety Improvements.
18A.20.248	Nonconforming Parking Lots.
18A.20.250	Nonconforming Landscaped Areas.
18A.20.258	Conditional Uses.
18A.20.260	Administrative Determinations.
18A.20.268	Review of Administrative Decisions.

---

Part III Public Notice Requirements (300–399)

Sections

18A.20.300	Public Notice Procedures.
18A.20.310	Public Notice Framework.

- 18A.20.320 Use of Pierce County Assessor's Office Taxpayer Data.
  - 18A.20.330 Notice of Application – Permits.
  - 18A.20.340 Notice of Public Hearing.
  - 18A.20.350 Optional Public Notice.
  - 18A.20.360 Joint Public Hearings.
- 

Part IV Appeals/Reconsiderations (400–499)

Sections

- 18A.20.400 Specific Appeal Procedures.
- 18A.20.410 Appeals to Hearing Examiner.
- 18A.20.420 Reconsideration of Hearing Examiner Decision.
- 18A.20.430 Clarification of Hearing Examiner Decision.
- 18A.20.440 No Appeals to City Council.

DRAFT

## **Part I Administration**

### **18A.20.010 Applications.**

The Director shall prescribe the official form in which applications are made for amendments to the Comprehensive Plan and the Development Code and the form of all project permit applications to be used for all matters which may come before the Department, Hearing Examiner, the Planning Commission and the City Council. The Department will prepare and provide copies for such purposes and prescribe the type of information to be provided in the application or petition by the applicant or petitioner. No application shall be deemed complete unless it complies with such requirements.

At minimum, each form shall require the authorized signature of the applicant, designation of a single person or entity to receive determinations and notices, and payment of the appropriate application fee, if any.

### **18A.20.020 Application Fees.**

A. Payment. Application fees as established by the City shall be paid to the Department upon the filing of any application or petition.

B. Official Fee Schedule. Fees for the review and processing of applications or permits pursuant to this title shall be identified on the official fee schedule for the City, adopted by the City Council.

### **18A.20.030 Complete Application Form and Content.**

Permit application contents. The City of Lakewood permit applications shall specify on each type of permit application the requirements necessary for complete compliance with required time periods and procedures for approval. One (1) copy of each permit application shall be kept on file in the Lakewood Community and Economic Development Department and shall be available in electronic format where possible. Such applications specify the content necessary for timely and orderly processing of each project permit application and for reaching a determination that such application is complete as provided by LMC Section 18A.20.050. The Director shall be responsible for updating the permit applications as necessary.

### **18A.20.040 Consolidated Review of Applications.**

Pursuant to RCW 36.70B.060 and 36.70B.120, an applicant may elect to submit a consolidated project permit application. Such a request shall be indicated by the applicant in writing upon and simultaneously with submission of all applications to be consolidated. Upon payment of the appropriate fee (s), all consolidated applications shall be processed as one application with the final decision on such application to be made by the Director if no public hearing is required, or the Hearing Examiner if a public hearing is required by law or by exercise of the Director's discretion. Simultaneous applications for permit approval

within one category of approvals, such as solely land use, building, or engineering approval, shall not be deemed consolidated reviews, but nonetheless shall be entitled to consolidated review if so elected by the applicant.

**18A.20.050 Complete Permit Applications, Notice and Time Periods.**

A. Determination of complete application. An application shall be deemed complete by the City when it meets the City's procedural submission requirements and is sufficient for continued processing even though additional information may be required. An application shall not be deemed complete unless it is accompanied by the appropriate application fee and includes all information specifically required as listed at LMC Section 18A.20.030, including the signature of the property owner(s) or an authorized representative thereof.

B. Notice of completeness. The Department shall provide a written notice within twenty-eight (28) days of the date of receipt of any application stating whether the application is complete, and identifying any other governmental agencies known to have jurisdiction over the proposal; or if not complete, setting forth any deficiency of the application, and specifying a date upon which the application will be null and void if any deficiencies have not been corrected.

Upon receipt of any required additional information, the Department shall notify the applicant within fourteen (14) days whether the application is now complete or what additional information is necessary.

Should the Department fail to provide a timely notice that an application is incomplete, the application shall be deemed vested as if complete on the 29th day after submittal.

C. Provision of additional information. Any information necessary to complete or to supplement an application must be submitted within six (6) months of the date of the notice describing such deficiency. The Department shall specify the date upon which the application will be null and void in any requests for supplemental information or studies. Should such information not be timely received, the application shall be null and void on the said date. Upon failure of the applicant to cure any deficiency by timely completing an application, fifty (50) percent of the application fee(s) submitted with the incomplete application shall be refunded.

D. Weekends and holidays. Regardless of whether any period is a minimum or maximum, when any permit review, notice or decision time limit of this Title terminates upon a weekend or City holiday, such time limit shall automatically be extended to the first following non-holiday weekday.

E. Review Period. The review and processing of project permit applications shall result in a decision being rendered within time limits set forth below.

F. Notice of Delayed Decision. If the City is unable to issue its final decision within the time limits listed below, the City will provide written notice of this fact to the applicant.

The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of a final decision.

G. Request for Timeline. Where no time limit is specified, upon written request the City will provide an estimated time of review.

H. Application Time Limits.

<b>PLANNING APPLICATION TYPE</b>	<b>TIME LIMIT</b>
Site-Specific Rezones (also see LMC Chapter 18A.20, Part IV) [Update per Council Action on QJCU]	180-days
Environmental Review (SEPA Checklist and Assessment)	90-days
Environmental Impact Statement (draft)	365-days
Short Plats	90-days
Land Use Approval	120-days
Preliminary Plat (10 or more lots)	120-days
Planned Development District	120-days
Final Plat	120-days
Conditional Use Permit	120-days
Variance	120-days
Shoreline Substantial Development Permit	120-days
Shoreline Exemption	90-days
Small Cell Wireless Permit	Per Ord. 703
Time Extension or Modification	90-days
Boundary Line Adjustment	90-days
Appeal to Hearing Examiner	90-days
<b>ENGINEERING PERMIT APPLICATION TYPE</b>	<b>TIME LIMIT</b>
Site Development Permit	90 days
<b>BUILDING PERMIT APPLICATION TYPE</b>	<b>TIME LIMIT</b>
New Single-family Residential	60-days
Residential Addition/Remodel	60-days
New Multifamily	120-days
New Commercial	120-days
Commercial Addition/Remodel	120-days

I. Time Limit Exceptions. The time limits set forth above do not include:



1. Up to the first twenty-eight (28) days after receipt of an application during which the City determines whether the application is complete.
2. Any period during which the applicant has been requested by the City to correct plans, perform studies or provide additional information requested by the City.
3. If the City determines that the additional information submitted to the City by the applicant under Subsection (2) above is insufficient, the City shall notify the applicant of the deficiencies and the procedures of Subsection (2) shall apply as if a new request for information has been made.
4. Any appeal period. Decisions regarding appeals shall be issued by the Examiner within 90 days of receipt of an appeal.
5. Any extension of time mutually agreed upon by the applicant and the City.
6. The time required to prepare and issue a final EIS in accordance with the State Environmental Policy Act.

**18A.20.060 Effects of Project Permit Application Revisions.**

A. If, in the judgment of the Director or their designee, the content of an application is so substantially revised by an applicant, either voluntarily or to conform with applicable standards and requirements, that such revised proposal constitutes a substantially different proposal than that originally submitted, the Director shall deem the revised proposal to be a new application.

In reaching a decision whether a revision is substantial, the Director shall consider the relative and absolute magnitude of the revision, the environmental sensitivity of the site, any changes in location of significant elements of the project and their relation to public facilities, surrounding lands and land uses and the stage of review of the proposal. Lesser revisions that would not constitute substantial revisions during early stages of review may be substantial during later stages due to the reduced time and opportunity remaining for interested parties to review and comment upon such changes. Written notice of such determination of substantial revision shall be provided to the applicant and all parties of record.

A determination that any revision is substantial shall result in the time periods mandated by the Regulatory Reform Act, RCW Chapter 36.70B, set forth in this Title starting from the date at which the revised project application is determined to be complete. The revised project application shall be subject to all laws, regulations, and standards in effect on the date of receipt of such complete substantial revision.

**18A.20.070 Approval and Appeal Authorities.**

The project review process for an application or a permit may include review and approval by one or more of the following processes:

A. Department Staff. Individual staff shall have the authority to review and approve, deny, modify, or conditionally approve, among others, the following actions and/or permits:

1. Accessory buildings;
2. Accessory dwelling units;
3. Administrative nonconforming determinations;
4. Area-wide rezones;
5. Binding site plans;
6. Boundary line adjustments;
7. Building permits and other construction permits exempt from the State Environmental Policy Act;
8. Certificates of occupancy;
9. Cottage housing developments;
10. Demolition permits;
11. Design review;
12. Environmental determinations;
13. Home occupation permits;
14. Land use modifications;
15. Landscape plan review and approvals;
16. Lot line adjustments;
17. Manufactured/mobile home permits;
18. Minor modifications to final planned development districts (PDD);
19. Occupancy permits;
20. Parking variances;
21. Preliminary and final short plats (creating 2-9 lots);
22. Reasonable use requests;
23. Sign permits;
24. Site-specific rezones;
25. Small cell wireless permits;
26. Temporary use permits;
27. Time extensions;
28. Tree plans;
29. Shoreline exemptions;
30. Shoreline substantial development permits;
31. Site development permits;
32. Wireless service facilities permits;
33. Zoning certifications;
34. Zoning boundary determinations; and

35. Interpretations of codes and regulations applicable to Title 18A.

B. Director. Pursuant to LMC Chapter 18A.30 Part V, Land Use Review and Approval, the Director shall have the authority to conduct pre-submission conferences and to grant, conditionally grant, deny, or modify, land use approvals regarding projects for which a public hearing is not required, and to extend the period of approval for land use approval granted by the Director or by the Hearing Examiner.

C. Lakewood Hearing Examiner. Lakewood Hearing Examiner shall have the authority vested pursuant to LMC Chapter 1.36.

D. The City Environmental Review Officer shall administer the State Environmental Policy Act (SEPA), LMC Title 14, Environmental Rules and Procedures, and LMC Title 14A, Critical Areas.

E. Shoreline Permit Review Process. See City of Lakewood Shoreline Master Program, Ordinance No. 590 or as amended hereafter.

F. Subdivision Review Process. See LMC Title 17.

**18A.20.080 Review and Appeal Authorities.**

The following table describes development permits, the public notice requirements, and the final decision and appeal authorities. When separate applications are consolidated at the applicant’s request, the final decision shall be rendered by the highest authority designated for any part of the consolidated application.

<b>KEY:</b>	
Appeal	= Body to whom appeal may be filed
Director	= Community and Economic Development Director
PC	= Planning Commission
HE	= Hearing Examiner
CC	= City Council
R	= Recommendation to Higher Review Authority
D	= Decision
O	= Open Record Appeal Hearing
C	= Closed Record Appeal Hearing
N	= No
Y	= Yes

	Public Notice of Application	Director	HE	PC	CC	Appeal [pending]
<b>TYPE I ADMINISTRATIVE</b>						
Accessory building	N	D	O			
Accessory dwelling unit	N	D	O			
Building & grading permits	N	D	O			
Business license for home occupation	N	D	O			

	Public Notice of Application	Director	HE	PC	CC	Appeal [pending]
Design review	N	D	O			
Interpretation	N	D	O			
Landscape plan	N	D	O			
Lot line adjustment	N	D	O			
Manufactured/mobile home permit	N	D	O			
Occupancy permit	N	D	O			
Parking variance	N	D	O			
Preliminary long plat, final	N	D	O		C/D	
Preliminary short plat, final	N	D	O			
Sign permit	N	D	O			
Site plan review (administrative)	N	D	O			
Small cell wireless permit						
Tree removal/replacement	N	D	O			
<b>TYPE II ADMINISTRATIVE</b>						
Business license for home occupations (with customer visits/deliveries)	Y	D	O			
Binding site plan	Y	D	O			
Cottage housing	Y	D	O			
Environmental review (SEPA)	Y	D	O			
Home occupation permit	Y	D	O			
Preliminary plat, short (2-9 lots)	Y	D	O			
Shoreline substantial development permit	Y	D				
<b>TYPE III DISCRETIONARY</b>						
Conditional use permit	Y	R	O			
Land Use Modification [pending]						
Preliminary plat, long	Y	R	O			
Shoreline conditional use permit	Y	R	O			
Shoreline variance	Y	R	O			
Site-specific rezone [pending]	Y	R	D	R		
Substantial development permit when referred by the shoreline administrator	Y	R	O			
Planned development district	Y	R	O			
Variance	Y	R	O			
Major modification of a Type III permit	Y	R	O			
Time extension to a Type III permit	Y	R	O			
<b>TYPE IV OTHER</b>						
Preliminary plat, final	N	R			D	
<b>TYPE V-A LEGISLATIVE</b>						
Modification to shoreline regulations	Y	R		R	D	
<b>TYPE V-B LEGISLATIVE</b>						
Development regulation text amendments	Y	R		R	D	
Comprehensive Plan map or text amendments (may include associated area-wide rezones)	Y	R		R	D	

### **18A.20.080 Expiration of Approvals.**

The City shall provide expiration dates in notifications of permit approvals. Knowledge of the expiration date of any approval is the responsibility of the applicant. The City shall not be held accountable for notification of pending expirations.

A. Variance. Except for variances related to Chapter 18A.60.050 and .060(F), unless exercised, a variance shall expire one year from the date a final decision is issued. If timely exercised, a variance shall be valid indefinitely.

B. Conditional use permit. Unless exercised or otherwise specified, a conditional use permit shall be void one (1) year from the date a notice of final decision was issued. If exercised, a conditional use permit shall be valid for the amount of time specified by the Hearing Examiner. If the use allowed by the permit is inactive, discontinued or abandoned for twelve (12) consecutive months, the permit is void and a new permit shall be obtained in accordance with the provisions of this title prior to resuming operations.

C. Home occupation permit. [Verify] A home occupation permit shall be valid indefinitely unless a time limitation is specified by staff or the Hearing Examiner or it is revoked for lack of compliance to conditions. A home occupation permit shall be void unless exercised within one (1) year from the date such permit was issued. If the use allowed by the permit is inactive, discontinued or abandoned for twelve (12) consecutive months, the permit is void and a new permit shall be applied for and obtained in accordance with the provisions of this title prior to resuming operations. A Home Occupation permit shall not be transferable to a new site or entity.

D. Land use approval. [Define land use approval] Unless exercised by complete application for necessary construction permits, any land use approval shall expire and be null and void two years from the date the final approval was issued. Land use approval shall be extended two additional years if a complete building or other construction permit application for the project is submitted prior to expiration of the land use approval. Even absent such application, upon finding that there has been no substantial change in relevant circumstances and standards, land use approval may be extended up to two (2) additional years by the Director pursuant to a written request submitted prior to expiration of land use approval. Upon receiving such request, notice shall be provided pursuant to the comparable notice of application procedures of **LMC Section 18A.20.310** [verify cite]. Following a comment period of at least 14 days, the Director may grant, limit or deny the extension and may impose such conditions of extension to ensure compliance with any subsequently revised standards. If such written request for extension is not received by the Department prior to expiration, such extension shall be denied.

E. Detailed Design Review approval shall expire simultaneously with expiration of any associated building or other construction permit.

**18A.20.110 Licenses and Building Permits.** [update per shift to use of DOL licensing system]

Business and occupational licenses shall not be issued unless the applicant has a final inspection or certificate of occupancy as required by LMC 15A.05 and as defined hereunder. No building permit shall be issued for the construction, alteration, change of use, or relocation of any building, structure or part thereof unless the plans, specifications and intended use of such building or structure conforms in all respects with the provisions of this Title 15A.05.

**18A.20.120 Certificate of Occupancy.**

A certificate of occupancy shall be obtained from the Department when a certificate of occupancy is required by the International Construction Codes.

**18A.20.110 Annexed Land.**

All land or territory within the urban growth area that is hereafter annexed to the City shall be zoned as depicted on the official zoning map of the City. Any area that is not pre-zoned shall be zoned in conformance to the comprehensive plan.

**18A.20.120 Approval of Transfer of Development Rights.** [review PC regs for potential needed updates]

A. Required Instruments. Final approval for site plans or subdivision plats which involve the transfer of development rights (TDR) shall not be approved until evidence is provided to the City that the following instruments have been approved by the Pierce County TDR Program Administrator and recorded with the Pierce County Auditor:

1. Signed and Recorded TDR Certificates for each unit of density on the receiving parcel(s) in the Residential 4-8 District; and
2. A signed and recorded Document of Attachment of the development rights to the subject parcel(s).

B. The following information shall be recorded on the face of any plat for property which received a TDR under the provision of this Chapter: A statement that the development rights used in the plat have been transferred in accordance with the Deed of Transfer of Development Rights, prescribed by Pierce County; the volume and page number of the recordation of the Deed of Transfer of Development Rights between the owner and the applicant; the volume and page number of the recordation of the Transfer of Development Rights Easement between the original owner and Pierce County; the serial numbers issued by the Pierce County TDR Program Administrator of the TDRs used in the plat; and the volume and page number of the recorded Document of Attachment of the TDRs to the subject parcel.

## Part II Nonconforming Uses and Structures

### 18A.20.200 Purpose.

This section establishes uniform provisions for the regulation of nonconforming land uses, structures, and lots (termed “nonconformities” within this chapter.) The use of a property is defined by the activity for which the building or lot is intended, designed, arranged, occupied, or maintained. See LMC Chapter 18A.40 for a further discussion of permitted uses.

A. Within the City’s zoning districts, there may exist lots, uses, and structures that were lawfully established but which no longer conform to the most current provisions and standards of the zoning district in which they are located. Such nonconformities may adversely affect the development and redevelopment of the City consistent with the provisions of the comprehensive plan.

This section provides for the regulation of these legally existing nonconformities and attempts to balance the rights of property owners to continue the use of their properties and the perpetuation of uses envisioned under the City's Comprehensive Plan and this Title. These standards specify the circumstances, conditions, and procedures under which such nonconformities are permitted to endure.

B. It is the overall intent to generally discourage the long-term continuance of nonconforming lots, uses and structures and to:

1. Limit the number and extent of specific nonconforming uses and structures that conflict with the provisions of this Zoning Code by prohibiting their reestablishment after abandonment;
2. Establish procedures and criteria for evaluating the allowable enlargement of specific nonconforming uses and structures;
3. Allow for the continuation and maintenance of specific nonconforming uses and structures;
4. Eliminate specific nonconforming uses and structures;
5. Limit the alteration, enlargement, or relocation of nonconforming structures in any manner that increases their level of nonconformity to this current Zoning Code;
6. Limit the extent to which nonresidential uses that are involuntarily damaged or destroyed can be restored; and

7. Allow for the reconstruction of nonconforming residential dwelling units that are involuntarily damaged or destroyed.

**18A.20.208 Applicability – Nonconformities.**

A. This section shall apply to legally existing nonconformities, except the following items, which shall be governed by the standards set forth in the chapters identified below.

1. Nonconforming uses and structures within the Downtown Subarea Plan, as defined in LMC \_\_\_\_\_. [Include discussion of amortization of nonconforming uses in Subarea Plan/other sections of LMC?]
2. Nonconforming signs as defined in LMC Chapter 18A.100, Signs.
3. Nonconforming wireless services facilities as defined in LMC Section 18A.95.160.
4. Nonconforming mobile home parks as defined in LMC Section 18A.40.110(C), Manufactured Home Parks. [Keep current 18A.70.460(A) re nonconforming parks? A. *Nonconforming Manufactured and Mobile Home Parks.* Manufactured and mobile home parks which were legally approved prior to the effective date of this title may continue to exist, provided that the density of the park does not increase over the number of dwelling units legally existing on the effective date of this title. Manufactured home sites within legally nonconforming manufactured home parks may continue to be used, provided that the placement of newer manufactured homes do not result in encroachment of the dwelling beyond the lot space boundaries or into the right-of-way and fire code requirements for structure spacing are met.]
5. Nonconforming sexually oriented businesses as defined in the LMC Chapter 18A.50, Section III.
6. Permit applications at the time of this title’s passage that constitute vested development.
  - i. Future plans to further develop property shall not constitute a basis for nonconformity status, whether or not documented in public record, except when they constitute a vesting.
  - ii. Nothing in this section shall be construed to require a change in plans, construction, or intended use related to vested development, though it may thereafter be regulated as a nonconformity.

**18A.20.210 Preexisting, Nonconforming Lots of Record.**



A. Variances Allowable: The entire contiguous ownership of multiple parcels of land shall be considered as a single parcel of land for determination of non-conformance as a consideration of development. A record of separate lot or parcel boundaries shall be disregarded.

It is recognized that the dimensions of some nonconforming lots of record are so constrained that meeting some development regulations such as setbacks would render such lots essentially unbuildable. The City will consider unusual hardships in reviewing applications for such development. Variances may be granted in such instances based on individual circumstances and may be conditioned to mitigate any negative effect on the surrounding area.

B. Alteration: Nonconforming lots may not be altered in any way that would increase the degree of nonconformity; provided, this does not preclude acquisition or dedication of additional public right of way when deemed necessary by the City Engineer.

#### **18A.20.218 Transfer of Ownership - Nonconforming Uses.**

The transfer of ownership of a nonconforming lot, use, or structure will not alter its legal nonconforming status.

#### **18A.20.220 Proof of Nonconformity.**

The burden of demonstrating that nonconformity is lawful under this Chapter rests with the property or business owner. The City may, at its discretion, request such records from a property or business owner as a basis for determining whether nonconformity was legally established and preexisting. Some examples of evidence that may indicate legal nonconforming status include: tax assessment records, construction or other permit records, personal or business income tax records, business license records, dated past advertising, dated business receipts to customers, dated rent receipts, affidavits from neighbors or tenants, testamentary documents, photographs whose date may be clearly ascertained, and other such information which is competent and factual.

#### **18A.20.228 Nonconforming Uses.**

A. Where a lawful structure exists at the effective date of adoption of the ordinance codified in this title that could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure, it may be continued so long as the structure remains otherwise lawful subject to the following provisions:

1. Whenever a nonconforming use has been abandoned, discontinued, or changed to a conforming use for a continuous period of twelve months or more, the nonconforming use shall not be reestablished, and thereafter the use of the structure or site wherein it was located shall be in conformity with the regulations for its zoning district.

If any nonconforming use ceases for any reason for a period of more than twelve consecutive months, any subsequent use shall conform to the regulations specified by this title for the district in which such use is located.

Abandonment or discontinuance shall include cessation of a use regardless of intent to resume the use.

2. A nonconforming use within a single-tenant building may only be replaced by a conforming use or another nonconforming use that is the same as or similar to the previous nonconforming use, provided not more than twelve months have passed since the cessation of the previous nonconforming use, and provided the replacement nonconforming use does not create new impacts or an increase in intensity of the land use.

3. A nonconforming use within a multi-tenant building may be replaced by a conforming use, a nonconforming use that is the same as or similar to the previous nonconforming use within the tenant space, provided not more than twelve months has passed since the cessation of the previous nonconforming use, or by a nonconforming use that is the same as or similar to an existing nonconforming use within the building, provided the replacement nonconforming use does not create new impacts or an increase in intensity of the land use.

4. Except as permitted in this section, no nonconforming use shall be enlarged or extended beyond the space it occupied on the effective date of the ordinance that designated it nonconforming.

5. A structure containing a nonconforming use may be expanded so long as the new addition is occupied by a conforming use, and the conforming use does not directly facilitate or support the non-conforming use. The new addition is subject to the development standards of the underlying zoning district. Both the existing building and new addition must comply with currently adopted City design guidelines.

#### **18A.20.230 Nonconforming Structures.**

A. Where a lawful structure exists at the effective date of adoption of the ordinance codified in this title that could not be built under the terms of this title by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure, it may be continued so long as the structure remains otherwise lawful subject to the following provisions:

1. No such structure may be enlarged or altered in a way that increases its degree of nonconformity. Alterations, additions or enlargements may be allowed as long as the work done does not extend further into any required yard or violate any

other portion of this title. Complete plans shall be required of all work contemplated under this section.

2. Work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 25 percent of the current replacement value of the building. Replacement values shall be determined by the City's Building Official.

3. Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, in the judgment of the City's Building Official, it shall not be reconstructed except in conformity with provisions of this title.

4. Should such structure be moved for any reason or any distance whatsoever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

#### **18A.20.240 Health or Safety Improvements.**

Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of any nonconforming building or part thereof declared to be unsafe by order of the building official charged with protecting the public safety. Alterations or expansion of a nonconforming use which are required by law or a public agency in order to comply with public health or safety regulations are the only alterations or expansions allowed.

#### **18A.20.248 Nonconforming Parking Lots.**

A. Nothing contained in this chapter shall be construed to require a change in any aspect of a structure or facility covered thereunder including, without limitation, parking lot layout, loading space requirements and curb cuts, for any structure or facility which existed on the date of adoption of the ordinance codified in this title.

B. If a change of use takes place within a nonconforming structure, or an addition is proposed, which requires an increase in the parking area, the additional parking area as required by this Title shall be provided.

#### **18A.20.250 Nonconforming Landscaped Areas.**

A. Adoption of the landscaping regulations contained in this title shall not be construed to require a change in the landscaped improvements for any legal landscape area which existed on the date of adoption of the ordinance codified in this title, unless and until a change of use or alteration of the structure is proposed.

B. At such time as a change is proposed for a use, or structure, and associated premises which does not comply with the landscape requirements of this title, a landscape plan which

substantially conforms to the requirements of this title shall be submitted to the Director for approval prior to issuance of a building permit.

**18A.20.258 Conditional Uses.**

A legal use does not become nonconforming because the zone in which it is located is changed to a zone which requires a conditional use permit for the use, or because the use is changed from an allowed use to a conditional use within the same zone; however, a conditional use permit shall then be required for any expansion of the use or enlargement of the building.

**18A.20.260 Administrative Determinations.**

By their nature, nonconformities can be unique and difficult to identify and equitably regulate. If issues of interpretation arise regarding the nonconforming status or replacement when abandonment, damage, or destruction has occurred, the Director shall issue an administrative determination as set forth in LMC Section 18A.20.070 [verify cite].

**18A.20.268 Review of Administrative Decisions.**

The Director's decision on an administrative decision under this chapter may be appealed to the Hearing Examiner, pursuant to LMC Chapter 1.36.

### Part III Public Notice Requirements

#### 18A.20.300 Public Notice Procedures.

A. The Director shall determine the proper public notification procedure for all applications. If there is a question as to the appropriate process, the Director shall resolve it in favor of the higher process number procedure. Process I is the lowest number procedure and Process V is the highest.

B. An application that involves two (2) or more procedures may be processed, at the City’s sole discretion, collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by the chapter. If the application is processed under the individual procedure option, the highest numbered process procedure must be processed prior to the subsequent lower numbered procedure. Joint public hearings with other agencies shall be held in accordance with LMC Section 18A.120.360.

C. Abbreviated findings shall be restricted to Process I and II, where less discretion is required to make a decision, and may serve as a permit if requirements are met.

#### 18A.20.310 Public Notice Framework.

To inform the public of proposed project actions, the Department and applicants shall provide notice as identified in the table below. A vicinity map and basic site plan shall be included with any mailed notices. If a project is SEPA-exempt and no public hearing is required, notice of application as required by RCW 36.70B.110 will be limited to the type of notice described below. **[Any substantive changes in table below from current 18A?]**

**[Verify Process type for Hearing Ex reviews]**

<b>KEY</b>	
NOA	= Notice of Application
CED	= Community and Economic Development Department
NOD	= Notice of Decision
PO-100	= Property owners within 100 feet of project site
PO-300	= Property owners within 300 feet of project site
PR	= Parties of Record on file
SEPA	= State Environmental Policy Act
WAC	= Washington Administrative Code

Process	Application Type	Notice Types	When	Who gets Notices
Type I Administrative	<ol style="list-style-type: none"> <li>1. Accessory building;</li> <li>2. Accessory dwelling unit;</li> <li>3. Building &amp; grading permits;</li> <li>4. Business license for home occupation;</li> <li>5. Design review;</li> </ol>	<ol style="list-style-type: none"> <li>1. NOD</li> </ol>	Within 120 calendar days after the City notifies the applicant that the application is complete	<ol style="list-style-type: none"> <li>1. Applicant;</li> <li>2. PR</li> </ol>

Process	Application Type	Notice Types	When	Who gets Notices
	<ul style="list-style-type: none"> <li>6. Interpretation;</li> <li>7. Landscape plan;</li> <li>8. Lot line adjustment;</li> <li>9. Manufactured/mobile home permit;</li> <li>10. Occupancy permit;</li> <li>11. Parking variance;</li> <li>12. Preliminary short plat, final;</li> <li>13. Sign permit;</li> <li>14. Site plan review (administrative);</li> <li>15. Tree removal/replacement</li> </ul>			
Type II Administrative	<ul style="list-style-type: none"> <li>1. Business license for home occupations (with customer visits/deliveries);</li> <li>2. Binding site plan;</li> <li>3. Cottage housing;</li> <li>4. Preliminary plat, short (2-9 lots);</li> <li>5. Shoreline substantial development permit</li> </ul>	<ul style="list-style-type: none"> <li>1. NOA;</li> <li>2. PO-100;</li> <li>3. Post site;</li> <li>4. Notify in newspaper of record;</li> <li>5. Post on the City's website</li> </ul> <p style="text-align: center;"><u>And-</u> NOD</p>	<ul style="list-style-type: none"> <li>1. 14 calendar days after City has made determination that application is complete</li> </ul> <p style="text-align: center;"><u>And-</u> Within 120 calendar days after the City notifies the applicant that the application is complete</p>	<ul style="list-style-type: none"> <li>1. Applicant;</li> <li>2. PR;</li> <li>3. PO-100;</li> <li>4. Agencies with jurisdiction</li> </ul>
SEPA	<ul style="list-style-type: none"> <li>1. Environmental checklist</li> </ul>	<ul style="list-style-type: none"> <li>1. NOA;</li> <li>2. PO-100 or PO-300 depending on Process;</li> <li>3. Post site;</li> <li>4. Notify in newspaper of record;</li> <li>5. Post on the City's website</li> </ul> <p style="text-align: center;"><u>And-</u> NOD</p>	<ul style="list-style-type: none"> <li>1. 14 calendar days after City has made determination that application is complete</li> </ul> <p style="text-align: center;"><u>And-</u> SEPA Threshold Determination</p>	<ul style="list-style-type: none"> <li>1. Applicant;</li> <li>2. PR;</li> <li>3. PO-100 or PO-300 depending on Process;</li> <li>4. Agencies with jurisdiction</li> </ul>
Type III Discretion-ary (Hearing Examiner)	<ul style="list-style-type: none"> <li>1. Conditional use permit</li> <li>2. Preliminary plat, long;</li> <li>3. Planned development district;</li> <li>4. Public facilities master plan (uses which utilize contiguous parcels of land totaling 20 acres or more);</li> <li>5. Variance;</li> <li>6. Major modification of a</li> </ul>	<ul style="list-style-type: none"> <li>1. NOA;</li> <li>2. PO-300;</li> <li>3. Post site;</li> <li>4. Notify in newspaper of record;</li> <li>5. Post on the City's website</li> </ul> <p style="text-align: center;"><u>And-</u></p>	<ul style="list-style-type: none"> <li>1. For NOA, 14 calendar days after City has made determination that application is complete</li> </ul> <p style="text-align: center;"><u>And-</u></p>	<ul style="list-style-type: none"> <li>1. Applicant;</li> <li>2. PR;</li> <li>3. PO-300;</li> <li>4. Agencies with jurisdiction</li> </ul>

Process	Application Type	Notice Types	When	Who gets Notices
	<p>Type III permit; and</p> <p>7. Time extension to a Type III permit</p>	<p>6. For Public Hearing, PO-300;</p> <p>7. Post site;</p> <p>8. Notify in newspaper of record;</p> <p>9. Post on the City's website</p> <p><u>And-</u> NOD</p>	<p>2. For Public Hearing, not less than 15 nor more than 30 days prior to the Public Hearing requiring the notice.</p> <p><u>And-</u> Within 120 calendar days after the City notifies the applicant that the application is complete</p>	
	<p>Shoreline conditional use permit;</p> <p>Shoreline variance;</p> <p>Substantial development permit when referred by the shoreline administrator;</p>	<p>Notification procedures are those that are contained in WAC 173-27-110</p>		
Type IV Other	<p>Final plat map</p>	<p>Post on the City's website</p>	<p>After the Public Works &amp; CED Director have determined that the final plat complies with the conditions of preliminary plat approval</p>	<p>1. Applicant;</p> <p>2. PR</p>
Type V-A	<p>Rezoning (site-specific, not associated with a Comprehensive Plan amendment);</p> <p>Development agreement</p>	<p>1. NOA;</p> <p>2. PO-300;</p> <p>3. Post site;</p> <p>4. Notify in newspaper of record;</p> <p>5. Post on the City's website</p> <p><u>And-</u> For Public Hearing, PO-300; Post site; Notify in newspaper of record; and Post on the City's website</p> <p><u>And also-</u> NOD</p>	<p>1. For NOA, 14 calendar days after City has made determination that application is complete</p> <p><u>And-</u> For Public Hearing, not less than 15 nor more than 30 days prior to the Public Hearing requiring the notice.</p> <p><u>And also-</u> For NOD, 180 calendar days after</p>	<p>1. Applicant;</p> <p>2. PR;</p> <p>3. PO-300;</p> <p>4. Agencies with jurisdiction</p>

Process	Application Type	Notice Types	When	Who gets Notices
			City has made determination that application is complete	
Type V-B Comprehensive Plan map and/or text amendments	Proposal  -----  Application	<ol style="list-style-type: none"> <li>1. Post on City's website  -----</li> <li>2. NOA;</li> <li>3. PO-300;</li> <li>4. Post site;</li> <li>5. Notify in newspaper of record;</li> <li>6. Post on the City's website</li> </ol> <p><u>And-</u> For Public Hearing, PO-300; Post site; Notify in newspaper of record; Post on the City's website</p> <p><u>And also-</u> NOD</p>	<ol style="list-style-type: none"> <li>1. 3<sup>rd</sup> quarter of calendar year  -----</li> <li>2. For NOA, 14 calendar days after City has made determination that application is complete</li> </ol> <p><u>And-</u> For Public Hearing, not less than 15 nor more than 30 days prior to the Public Hearing requiring the notice.</p> <p><u>And also-</u> For NOD, 180 calendar days after City has made determination that application is complete</p>	Applicant, if any
	Development regulations (zoning text/shorelines);	<ol style="list-style-type: none"> <li>1. NOA</li> </ol> <p><u>And-</u> If area wide, Public Hearing would be noticed in newspaper of record; Post on the City's website</p>	<ol style="list-style-type: none"> <li>1. For NOA, 14 calendar days after City has made determination that application is complete</li> </ol> <p><u>And-</u> For Public Hearing, not less than 15 nor more than 30 days prior to the Public Hearing requiring the notice.</p> <p><u>And also-</u> For NOD, 180</p>	<ol style="list-style-type: none"> <li>1. Applicant, if any</li> <li>2. Proposal may be subject to optional public notice method</li> </ol>



Process	Application Type	Notice Types	When	Who gets Notices
		<i>And also-</i> NOD	calendar days after City has made determination that application is complete	

**18A.20.320 Use of Pierce County Assessor’s Office Taxpayer Data.**

The available records of the Pierce County Assessor’s Office shall be used for determining the property taxpayer of record. Addresses for mailed notice shall be obtained from the County’s real property tax records. All public notices shall be deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first.

**18A.20.330 Notice of Application – Permits.**

A. A notice of application shall be issued within fourteen (14) calendar days after the City has made a determination of completeness pursuant to LMC Section 18A.20.050 for: all Process I and II permits that require SEPA review; all short plats and shoreline substantial development permits; and all Process III and IV applications. The notice of application shall be provided at least fifteen (15) calendar days prior to any required open record hearing. One (1) notice of application shall be completed for all permit applications related to the same project at the time of the earliest complete permit application.

B. SEPA exempt projects. A notice of application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an open record hearing is required prior to the decision on the project.

C. Contents. The notice of application shall include:

1. The case file number(s), the date of application, the date of the determination of completeness for the application and the date of the notice of application.
2. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested by the review authority pursuant to RCW 36.70B.070.
3. The identification of other required permits that are not included in the application, to the extent known by the City.
4. The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed.

5. A statement of the limits of the public comment period, which shall be not less than fourteen (14) nor more than thirty (30) calendar days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights.

6. The tentative date, time, place and type of hearing, if any. The tentative hearing date is to be set at the time of the date of notice of the application.

7. The identification of the development regulations that will govern mitigation of any project impacts.

8. The name of the applicant or applicant's representative and the name, address and telephone number of a contact person for the applicant.

9. A description of the site, including current zoning and nearest road intersections, reasonably sufficient to inform the reader of its location.

10. Any other information determined appropriate by the City, such as a Determination of Significance, if complete at the time of issuance of the notice of application, or the City's statement of intent to issue a Determination of Non-Significance (DNS) pursuant to the optional Determination of Non-Significance (DNS) process set forth in WAC 197-11-355.

D. Mailing of Notice. The City shall mail a copy of the notice of application to the following:

1. The applicant.
2. Agencies with jurisdiction.
3. Any person who requests such notice in writing.

E. Public Comment on the Notice. All public comments on the notice of application must be received by the Community and Economic Development Department or postmarked by 5 p.m. on the last day of the comment period. Comments may be mailed, personally delivered or sent by facsimile or email. Comments should be as specific as possible.

F. Posted Notice. In addition to the mailed notice of application, the City will provide notice of application on the City's website. The applicant shall be responsible for posting a notice board on the property on which City notices can be placed. Public notice shall be accomplished through the use of City poster boards mounted on a four (4) foot by four (4) foot plywood face generic notice board to be supplied by the applicant, to the following specifications:

1. Posting. Posting of the property for site-specific proposals shall consist of one (1) or more notice boards as follows:
  - a. A single notice board shall be placed by the applicant in a conspicuous location on a street frontage bordering the subject property.
  - b. When the notice board is posted the applicant shall complete and return a written statement of posting to the department by regular or electronic mail.
  - c. Each notice board shall be visible and accessible for inspection by members of the public.
  - d. Additional notice boards may be required when:
    - (1) The site does not abut a public road; or
    - (2) Additional public notice boards are required under other provisions of the Lakewood Municipal Code; or
    - (3) The Director determines that additional notice boards are necessary to provide adequate public notice.
  - e. Notice boards should be:
    - (1) Constructed and installed in accordance with specifications determined by the department, including mounted and bolted onto at least two four (4) inch by four (4) inch wood posts, and placed securely in the ground;
    - (2) Maintained in good condition by the applicant during the notice period;
    - (3) In place at least fifteen (15) calendar days prior to the end of any required comment period; and
    - (4) Removed by the applicant within ten (10) calendar days after the end of the notice period or final hearing date.
  - f. Notice boards that are removed, stolen, or destroyed prior to the end of the notice period may be cause for discontinuance of the departmental review until the notice board is replaced and remains in place for the specified time period. The City shall notify the applicant when it comes to the City's attention that notice boards have been removed prematurely, stolen, or destroyed.

g. An affidavit of posting shall be submitted to the Director at least seven (7) calendar days prior to the hearing. If the affidavits are not filed as required, any scheduled hearing or date by which the public may comment on the application may be postponed in order to allow compliance with this notice requirement.

h. SEPA information shall be added by the City to the posted sign within applicable deadlines.

G. Website. The Department shall publish notices on the City's website.

#### **18A.20.340 Notice of Public Hearing.**

A. Notice of public hearing is required for all types of applications for which a public hearing is held. Notices of public hearing shall be reasonably calculated to give actual notice and, other than for a legislative action under LMC Chapter 18A.110, Parts I and VI, shall contain the following information:

1. The name of the applicant or the applicant's representative.
2. Description of the affected property, which may be in the form of either a vicinity location sketch or written description, other than a legal description.
3. The date, time, and place of the hearing.
4. The nature of the proposed use or development.
5. A statement that all interested persons may appear and provide testimony.
6. When and where information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be admitted.
7. The name of a City representative to contact and the telephone number where additional information may be obtained.
8. That a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at the cost of reproduction.
9. That a copy of the staff report will be available for inspection at no cost at least five (5) calendar days prior to the hearing and copies will be provided at the cost of reproduction.

B. Posted Notice.

1. Mail. The Department shall mail notice at least fifteen (15) days prior to the hearing through the United States Postal Service to all property owners of record within a radius of three hundred (300) feet of the exterior boundaries of the subject property, any person who submitted written comments on an application, the applicant, and parties of record, if any.

2. Website. The Department shall publish notice on the City's website.

#### **18A.20.350 Optional Public Notice.**

In addition to the required methods set forth in this chapter for providing public notice, the Director may require additional optional notification by the City, if determined necessary to ensure adequate notice to the public. The City's failure to provide the optional notice as described in this subsection shall not be grounds for invalidation of any permit decision. Optional public notice includes, but is not limited to, any one or more of the following:

- A. Notify public or private individuals or groups with known interest in a certain proposal or type of proposal, or in proposals within a certain area or areas of the City;
- B. Notify the news media;
- C. Mail to neighboring property owners and occupants;
- D. Post notices in public places;
- E. Record notices on a telephone message line;
- F. Post notices electronically via the Internet;
- G. For legislative actions, except annexations, mail via the United States Postal Service to persons who have indicated an interest in such actions and who have paid an annual subscription fee based on the cost of such mailings. The list of such persons shall be maintained by the department of community development;
- H. For legislative actions, except annexations, e-mail to persons who have indicated an interest in such actions and a preference to be notified by e-mail. The list of such persons shall be maintained by the department of community development.

#### **18A.20.360 Joint Public Hearings.**

A. The Director may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency, on the proposed action, as long as:

- 1. The other agency consents to the joint hearing;

2. The other agency is not expressly prohibited by statute from doing so;
3. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;
4. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing; and
5. The hearing is held within the Lakewood City limits.

B. An applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in LMC Section 18A.120.090. In the alternative, the applicant may agree to a particular schedule if additional time is needed in order to complete the hearings.

DRAFT

## Part IV Appeals/Reconsiderations

### 18A.20.400 Specific Appeal Procedures.

A. Administrative Decision. Administrative decisions regarding the approval or denial of the following applications or determinations/interpretations may be appealed to the Hearing Examiner within fourteen (14) days, or twenty-one (21) days if issued with a SEPA threshold determination including a comment period, of the final staff decision using procedures outlined below and in LMC Chapter 1.36.

1. All Administrative Interpretations/Determinations
2. Boundary Line Adjustments
3. Home Occupation Permits
4. Preliminary Short Plats
5. Preliminary SEPA Threshold Determination (EIS required)
6. Shoreline Exemptions and staff-level substantial development permits
7. Sign Permits
8. Site-Specific Rezones [verify]
9. Small cell wireless permits [verify]
10. Variances
11. Building permits
12. Engineering permits
13. Application or interpretations of the International Building Code
14. Application or interpretations of the International Fire Code
15. Application or interpretations of the Uniform Code for the Abatement of Dangerous Buildings
16. Land Use (Director) decisions
17. Appeals of Drainage Manual Administrator decisions

B. SEPA.

1. The City establishes the following administrative appeal procedures under RCW 43.21C.075 and WAC 197-11-680 [verify cites]:

a. Any agency or person may appeal the City's conditioning, lack of conditioning or denial of an action pursuant to WAC Chapter 197-11 [verify cite]. All such appeals shall be made to the Hearing Examiner and must be filed within seven (7) days after the comment period before the threshold decision has expired. This appeal and any other appeal of a land use action shall be considered together.

b. The following threshold decisions or actions are subject to timely appeal.

i. Determination of Significance. Appeal of a determination of significance (DS) or a claim of error for failure to issue a DS may only be appealed to the Hearing Examiner within that fourteen (14) day period immediately following issuance of such initial determination.

ii. Determination of Nonsignificance or Mitigated Determination of Nonsignificance. Conditions of approval and the lack of specific conditions may be appealed to the Hearing Examiner within seven (7) calendar days after the SEPA comment period expires.

iii. Environmental Impact Statement (EIS) Adequacy. A challenge to a determination of adequacy of a Final EIS may be heard by the Hearing Examiner in conjunction with any appeal or hearing regarding the associated project permit. Where no hearing is associated with the proposed action, an appeal of the determination of adequacy must be filed within fourteen (14) days after the thirty (30) day comment period has expired.

iv. Denial of a proposed action. Any denial of a project or non-project action using SEPA policies and rules may be appealed to the Hearing Examiner within seven (7) days following the final administrative decision.

c. For any appeal under this subsection the City shall keep a record of the appeal proceedings, which shall consist of the following:

i. Findings and conclusions; and

ii. Testimony under oath; and

iii. A taped or written transcript.



d. Any procedural determination by the City's responsible official shall carry substantial weight in any appeal proceeding.

2. The City shall give official notice under WAC 197-11-680 [verify cite] whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

C. Land use approval.

1. The Director's decisions may be appealed to the Hearing Examiner by any aggrieved or affected parties. All appeals shall be filed in writing with the Department within fourteen (14) days of the date of the decision being appealed. Where combined with an environmental threshold determination, such appeal period shall be extended to twenty-one (21) days.

2. The Department shall send written notification of receipt of the appeal to the applicant and to all appropriate City departments prior to the date the Hearing Examiner will consider the matter.

3. Any action taken by the Hearing Examiner which upholds, modifies or reverses a decision by the Director shall be final.

4. Site-specific rezones [pending & verify]

D. Building and fire permit appeals. For building or fire code appeals, the Hearing Examiner is authorized to appoint a master, an individual with appropriate professional experience and technical expertise, to hear such appeals and to prepare findings and conclusions for issuance by the Hearing Examiner. [Verify consistency w Title 15]

**18A.20.410 Appeals to Hearing Examiner.** [Include reference to LMC Title 14, Environmental Protection] [Verify consistency w Title 1]

A. Appellant. Appeals may be taken to the Hearing Examiner only by a party of record aggrieved or by any officer, department, board, council or commission of the City affected by any order, requirement, permit, decision or determination made by an administrative official in the administration or enforcement of this title or any amendment thereto. Such appeals shall be filed in writing with the Department on forms provided by the Department within fourteen (14) days after the date of decision. Appeals of a land use approval combined with environmental threshold determinations shall be filed in writing with the Department within twenty-one (21) days of the date of final decision. The Department shall promptly forward a copy of such appeal to the Hearing Examiner.

B. Basis of appeal and relief sought. Every appeal shall state in writing:

1. How the appellant is or is likely to be harmed or prejudiced by the decision appealed from;
2. How or in what particular respect the administrative official erred; and
3. What relief or ruling is sought and how such ruling would eliminate or reduce harm to the appellant.

C. Dismissal. Failure to state specific grounds of the appeal and relief sought may result in dismissal of such appeal. The City staff or any party may request dismissal of an appeal at any time with notice to all parties. Upon finding that the appeal fails to state cause to reverse or modify the decision or that the Hearing Examiner lacks jurisdiction to grant relief, the Hearing Examiner may dismiss such appeal without hearing. The Hearing Examiner shall state in writing whether such dismissal is with or without prejudice.

D. Notice and record. Upon the finding that an appeal has sufficient merit the Hearing Examiner shall set the time and place at which the matter will be heard. At least a ten (10) day notice of the time and place of such open record appeal hearing shall be given to the parties of record and to the official whose decision is being appealed. The Department shall transmit to the Hearing Examiner a copy of all of the records pertaining to the decision being appealed, together with written reports as the Hearing Examiner deems pertinent.

E. Waiver of hearing. By agreement of all parties thereto, the appeal hearing may be waived. Such appeal may be decided by the Hearing Examiner on the basis of written briefs or memoranda.

F. Standard of review. The Hearing Examiner shall only grant the relief requested by an appellant upon finding that the appellant has established that:

1. The staff engaged in unlawful procedures or failed to follow a prescribed procedure;
2. The staff's decision was an erroneous interpretation of the law;
3. The decision is not supported by substantial evidence within the context of the whole record;
4. The decision is a clearly erroneous application of the law to the facts;
5. The decision is outside the authority or jurisdiction of the decision-maker; or
6. The decision is clearly in conflict with the City's adopted plans, policies or ordinances.

G. Decision. The decision of the Hearing Examiner shall be limited to those issues timely raised on appeal. The examiner may not reconsider or modify aspects of a project

previously considered and settled by another final decision of the City. In exercising the powers granted herein, the Hearing Examiner may, in conformity with this title, reverse or affirm, wholly or in part, or may modify the order, requirements, decision or determination appealed, and may make such order, requirement, decision or determination as should be made, and, to that end, shall have all the powers of the officer from whom the appeal is being taken, insofar as the decision on the particular issue is concerned, and in making a determination the Hearing Examiner may hear any pertinent testimony and receive and consider any other evidence bearing on the case.

**18A.20.420 Reconsideration of Hearing Examiner Decision.**

A. Decisions of the Hearing Examiner may be reconsidered. Further, prior to issuing a decision, the Examiner may reconvene any hearing or continue any other proceeding in such manner as the Examiner deems appropriate to ensure a fair, timely, and reasoned decision.

B. After issuance of a final decision any party, including the Department, may file a motion for reconsideration on an appeal to the Hearing Examiner in accordance with subsection (C) of this Section. Such motion must be filed within ten days of service of the final decision. The original of the motion for reconsideration shall be filed at the Department with a copy to the Lakewood City Attorney's Office. At the same time, copies shall be served on all parties of record. Within five days of filing the motion for reconsideration, a party may file an answer to the motion for reconsideration without direction or request from the Hearing Examiner. The Hearing Examiner may require other parties to supply an answer. All answers to motions for reconsideration shall be served on all parties of record.

C. A motion for reconsideration shall be based on at least one of the following grounds:

1. Errors of procedure or misinterpretation of fact or law, material to the party seeking reconsideration;
2. Irregularity in the hearing before the Hearing Examiner by which such party was prevented from having a fair hearing; or
3. Clerical mistakes in the final decision and order.

D. In response to a motion for reconsideration, the Hearing Examiner may deny the motion, modify its decision, or reopen the hearing. A motion is deemed denied unless the Hearing Examiner takes action within 20 days of the filing of the motion for reconsideration. A Hearing Examiner order on a motion for reconsideration is not subject to a further motion for reconsideration.

E. A decision in response to the motion for reconsideration shall constitute a final decision and order for purposes of judicial review. Copies of the final decision and order shall be served on each party or the party's attorney or other authorized representative of

record, unless the decision is deemed denied following the 20-day time frame set forth in Subsection C of this Section.

F. The time for an appeal to court does not commence until disposition of the motion for reconsideration. If the Hearing Examiner takes no action under subsection (D) of this Section, the motion for reconsideration is deemed disposed at the end of the 20-day period. The filing of a motion for reconsideration is not a prerequisite for seeking judicial review.

#### **18A.20.430 Clarification of Hearing Examiner Decision.**

A. Any interested party believing that a decision of the Hearing Examiner is ambiguous, vague, or internally inconsistent may request clarification of the decision by the Hearing Examiner. Such a request shall be submitted to the Department with the applicable fee and shall set forth the specific provision requiring additional clarity. The Department shall forward such request to the Hearing Examiner. Upon receipt of such a request, the Hearing Examiner may take action as the Hearing Examiner deems appropriate to the circumstances.

B. A request for clarification shall not provide an opportunity for reconsideration of a decision nor for introduction of new evidence. Except as ordered by the Hearing Examiner, the filing of a request for clarification shall not toll any appeal period or delay issuance of any permit.

C. When the Hearing Examiner determines that a clarification is in order, the Examiner may issue a supplemental or clarified decision. As deemed appropriate by the Hearing Examiner, the Hearing Examiner may order that the supplemental or clarified decision be subject to appropriate notice and an opportunity for appeal.

#### **18A.20.440 No Appeals to City Council.**

There are no appeals from the Hearing Examiner to the City Council.

**Attachment C**  
**CHAPTER 18A.30 - DISCRETIONARY PERMITS**

Part I Comprehensive Plan Amendment

Sections

18A.30.010	Type of action.
18A.30.020	Plan amendment procedures – Comprehensive Plan.
18A.30.030	Preliminary review and evaluation criteria – Comprehensive Plan.
18A.30.040	Council approval of final docket – Comprehensive Plan.
18A.30.050	Final review and evaluation – Comprehensive Plan.
18A.30.060	Decision criteria for rezone requests – Comprehensive Plan.
18A.30.070	Consistency between the zoning map and the future land use map – Comprehensive Plan.
18A.30.080	Planning commission and city council review and adoption process.
18A.30.090	Timing and exemptions.
18A.30.100	Notice to county assessors of changes in Comprehensive Plan and development regulations.

---

Part II Conditional Use Permit

Sections

18A.30.110	Purpose – conditional use permit.
18A.30.120	Type of action.
18A.30.130	Criteria for approval.
18A.30.140	Conditions of approval.
18A.30.150	Minor modifications to approved conditional use permits.
18A.30.160	Time frame for submission of construction permits.
18A.30.170	SEPA-exempt conditional uses
18A.30.180	Compliance - conditional use permit.
18A.30.190	Transferability - conditional use permit.
18A.30.200	Essential public facilities - conditional use permit.
18A.30.210	Special needs housing - conditional use permit.

---

Part III Cottage Housing

Sections

18A.30.220	Purpose – cottage housing.
18A.30.230	Applicability.
18A.30.240	General provisions.
18A.30.250	Development standards.
18A.30.260	Open space.
18A.30.270	Building design standards.
18A.30.280	Parking.

18A.30.290	Common area maintenance.
18A.30.300	Low impact development standards.
18A.30.310	Modifications.

---

#### PART IV Development Agreement

Sections	
18A.30.320	Authority.
18A.30.330	Type of action.
18A.30.340	Content.
18A.30.350	Application.
18A.30.360	Timing of public hearings.
18A.30.370	Notice.
18A.30.380	Staff report.
18A.30.390	Public hearing and city council action.
18A.30.400	Term of agreement.

---

#### PART V Land Use Review and Approval

Sections	
18A.30.410	Purpose – land use review and approval.
18A.30.420	Type of action.
18A.30.430	Applicability.
18A.30.440	Delegation of authority.
18A.30.450	Application –content.
18A.30.460	Application – review process.
18A.30.470	Site plan review log – summary of action.
18A.30.480	Notification.
18A.30.490	Reconsideration in response to SEPA comments.
18A.30.500	Amendments.
18A.30.510	Dedication, improvements and performance bond.
18A.30.520	Final approval – expiration.

---

#### PART VI Planned Development

Sections	
18A.30.530	Purpose.
18A.30.540	Application.
18A.30.550	Public hearing.
18A.30.560	Required findings.
18A.30.570	Action of hearing examiner.
18A.30.580	Minimum size.
18A.30.590	Permitted modifications.

---

18A.30.600	Permitted residential density and lot sizes.
18A.30.610	Required open space and recreation facilities.
18A.30.620	Multiple zoning districts.
18A.30.630	Binding site plan.
18A.30.640	Phased development.
18A.30.650	Required certificates and approvals.
18A.30.660	Expiration.

---

## PART VII Rezone and Text Amendment [Update per QJCU]

Sections	
18A.30.670	Authority.
18A.30.680	Site-specific rezone procedures.
18A.30.690	Collection of rezone applications.

---

## PART VIII Temporary Use Permit

Sections	
18A.30.700	Purpose.
18A.30.710	Permitted uses.
18A.30.720	Exemptions.
18A.30.730	Application and authorization.
18A.30.740	Standards.
18A.30.750	Criteria for granting approval.
18A.30.760	Decision.

---

## PART IX Transitory Accommodations

Sections	
18A.30.770	Definition.
18A.30.780	Process.
18A.30.790	Site performance criteria.
18A.30.800	Duration performance criteria.
18A.30.810	Health and safety performance criteria.
18A.30.820	Conduct and security performance criteria.
18A.30.830	Other performance criteria.

---

## PART X. Variances

Sections	
18A.30.840	Purpose.

18A.30.850	Type of action.
18A.30.860	Limitations.
18A.30.870	Authority.
18A.30.880	Required findings.
18A.30.890	Additional conditions of approval.

---

PART XI. Unusual Uses

Sections

18A.30.900	Unusual uses.
18A.30.910	Type of action.



## **Part I - Comprehensive Plan amendment**

### **18A.30.010 Type of action.**

A. A Comprehensive Plan map or text amendment (may include associated rezone) is a Type V-B legislative action as set forth in LMC 18A.20, Administration.

### **18A.30.020 Plan amendment procedures – Comprehensive Plan.**

Individual and agency initiated proposals to amend the Lakewood Comprehensive Plan shall be submitted to the Department on forms provided by the City. Proposals may be submitted at any time; however, to be considered in the same calendar year, they must be submitted by the deadline set by the City Council, unless otherwise specifically authorized by the City Council. All proposals shall be considered collectively once each year except in the case of an emergency as determined by the City Council (see Timing and Exemptions). The Comprehensive Plan Amendment calendar shall be approved by the City Council. No fee shall be charged at this proposal stage. The Department shall maintain a log or docket of all such proposals including a summary of the proposal, the principal proponent's name and address, the date on which the proposal was submitted, and its review status.

### **18A.30.030 Preliminary review and evaluation criteria – Comprehensive Plan.**

A. Prior to City Council action, the Department shall conduct a preliminary review and evaluation of proposed amendments, including rezones, and assess the extent of review that would be required under the State Environmental Policy Act (SEPA). The preliminary review and evaluation shall also include any review by other departments deemed necessary by the Department, and except as provided in LMC Chapter 18A.30 Part VII Rezones and Text Amendments, shall be based on the following criteria:

1. Is the proposed amendment consistent with the county-wide planning policies, the Growth Management Act (GMA), other state or federal law, or the Washington Administrative Code?
2. Would the proposed amendment cause little or no adverse environmental impacts and, is the time required to analyze impacts available within the time frame of the standard annual review process?
3. Is sufficient analysis completed to determine any need for additional capital improvements and revenues to maintain level-of-service, and is the time required for this analysis available within the time frame for this annual review process?
4. Can the proposed amendment be considered now without conflicting with some other Comprehensive Plan established timeline?
5. Can the proposed amendment be acted on without significant other amendments or revisions not anticipated by the proponents and is the time required

for processing those amendments or revisions available within the time frame of this annual review process?

6. If the proposed amendment was previously reviewed, ruled upon or rejected, has the applicant identified reasons to review the proposed amendment again?

B. If the Department determines that the answer to any of the above questions is no, it may recommend to the City Council that the proposed amendment or revision not be further processed in the current amendment review cycle. Upon direction from City Council, Department staff will inform those whose proposed amendments or revisions will not be considered because (a) impact analysis beyond the scope of the amendment process is needed; (b) the request does not meet preliminary criteria; or (c) likelihood of inclusion of the proposal in a department's work program. Proponents may resubmit proposals to the department at any time, subject to the timelines contained in this chapter.

**18A.30.040 Council approval of final docket – Comprehensive Plan.**

A. The Department shall compile a list giving the status of all proposed amendments, including rezones, and forward the list to the City Council. The City Council shall review all such proposals, determine which are appropriate and worthy of further review and consideration, and move those to the Planning Commission for review and public hearing.

B. The list approved by the City Council shall be known as the final docket. The Department shall notify proponents of the items on the docket that will be moved to the Planning Commission for review. Proponents shall be required to submit an application and shall pay such fee as may be established by the City Council. Proponents of the proposals not moved to the Planning Commission shall also be notified of the Council's decision. Department and City initiated proposals are exempt from application fees. Information about the amendment process and the schedule shall be distributed with final application forms.

**18A.30.050 Final review and evaluation– Comprehensive Plan.**

A. The Department shall distribute the final docket of proposed amendments, including rezones, to any state or local agency which is required by law to receive notice of proposed amendments and revisions to the Comprehensive Plan and implementing development regulations within the time required. In addition, the Department shall distribute the final docket of proposed amendments to recognized neighborhood associations and other affected interests identified by the City Council. The Department shall include issues identified in amendment proposal analyses and conduct any review required by SEPA of the proposed amendments, including rezones, listed on the final docket.

B. The Department shall prepare a report including any recommendations on each proposed amendment, including rezones, on the final docket and forward the report to the Planning Commission. At a minimum the Planning Commission recommendation and the Council decision should address the following:

1. Does the proposed amendment or revision maintain consistency with other plan elements or development regulations? If not, are amendments or revisions to other plan elements or regulations necessary to maintain consistency with the current final docket that will be considered by the Planning Commission and the City Council?
2. Is the proposed amendment or rezone consistent with the goals of the Comprehensive Plan?
3. Is the proposed amendment or revision consistent with the county-wide planning policies?
4. Does the proposed amendment or rezone comply with the requirements of the GMA?

**18A.30.060 Decision criteria for rezone requests – Comprehensive Plan.**

The following criteria will be used to evaluate each rezone request. A zoning map amendment shall only be approved if the Council concludes that at minimum the proposal complies with subsections A through C. To be considered are whether:

- A. The rezone is consistent with either the Comprehensive Plan including the Plan's Future Land Use Map as described in **LMC Section 18A.30.070 [VERIFY CITE]** or with a concurrently approved amendment to the Plan.
- B. The rezone will maintain the public health, safety, or welfare.
- C. The rezone is consistent with other development regulations that implement the comprehensive plan.
- D. The rezone will result in a district that is compatible with adjoining zoning districts; this may include providing a transition zone between potentially incompatible designations.
- E. Public facilities and services existing and planned for the area are adequate and likely to be available to serve potential development allowed by the proposed zone.

**18A.30.070 Consistency between the zoning map and the future land use map – Comprehensive Plan.**

- A. Districts on the zoning map shall correspond to categories of the Future Land Use Map in accordance with the following table and be consistent with the purposes of each designation. Only those districts listed below are deemed to be consistent with the corresponding Future Land Use map designation.

<b>COMPREHENSIVE PLAN/ZONING DISTRICT MATRIX</b>	
<b>Comprehensive Plan Designation</b>	<b>Zoning District Classification</b>
Residential Estate	Residential 1 (R1); Residential 2 (R2)
Single Family	Residential 3 (R3); Residential 4 (R4)
Mixed Residential	Mixed Residential 1 (MR1)Mixed Residential 2 (MR2)
Multi Family	Multi Family 1 (MF1); Multi Family 2 (MF2);
High-Density Multi Family	Multi Family 3 (MF3)
Corridor Commercial	Commercial 1 (C1); Commercial 2 (C2); Commercial 3 (C3)
Central Business District	Central Business District (CBD)
Arterial Corridor	Arterial Residential Commercial (ARC)
Neighborhood Business District	Neighborhood Commercial 1 (NC1);Neighborhood Commercial 2 (NC2);Multi Family 2 (MF2);Multi Family 3 (MF3);

**18A.30.080 Planning Commission and City Council review and adoption process.**

A. Following one or more public hearings the Planning Commission shall forward its written recommendation regarding each Comprehensive Plan amendment and any text amendments or rezones to the City Council.

B. The Council shall review the recommendations of the Planning Commission, may hold a public hearing, and shall decide whether to adopt, modify and adopt, reject or defer to a later date, each proposed amendment.

C. Each proponent shall be notified by mail of all public hearings and of the Council’s final decision.

**18A.30.090 Timing and exemptions.**

A. The City will consider proposed amendments to the Comprehensive Plan only once each year, except when amendments are adopted as part of:

1. The adoption of a subarea plan;
2. The adoption or amendment of a shoreline master program under the procedures set forth in **WAC 173-19**;
3. The response to an existing emergency;
4. Amendments necessitated by changes in state or federal laws;
5. The resolution of an appeal filed with the Growth Management Hearings Board or with a court; or
6. The amendment of a capital facilities element that occurs concurrently with the adoption or amendment of the city budget.

B. The Department will accept proposals for Comprehensive Plan amendments and revisions at any time; however, proposals or applications received after their established due dates will be considered in the next annual amendment review cycle.

**18A.30.100 Notice to County Assessor of changes in Comprehensive Plan and development regulations.**

The director shall provide to the Assessor of Pierce County by July 31st of each year a copy of the city's Comprehensive Plan and development regulations in effect on July 1st of that year.

## **Part II - Conditional use permit**

### **18A.30.110 Purpose – conditional use permit.**

The purpose of this sub-chapter is to establish the type of action, contents of a complete application, and criteria for approval for conditional use permits. Conditional use permits are required for land uses which are appropriate in a zone but typically have certain characteristics such as traffic generation or building mass which warrant imposition of special conditions to ensure compatibility with permitted uses in the zone.

### **18A.30.120 Type of action.**

A conditional use permit is a Type III action and shall be considered in accordance with the procedures for such permits as set forth in LMC 18A.20 Administration.

### **18A.30.130 Criteria for approval.**

A conditional use permit shall be granted by the city, only if the applicant demonstrates that:

- A. The granting of the conditional use permit will not:
  - 1. Adversely affect the established character of the surrounding vicinity. For the purposes of this section, character shall mean the distinctive features or attributes of buildings and site design on adjacent properties and in the vicinity and as articulated in the comprehensive plan, including but not limited to building facade, length, building modulation, building height, roof form, tree cover, types of flora, location of landscaping, size and location of signs, setbacks, amount and location of parking, fencing type, height and location, and the like;
  - 2. Be detrimental to the public health, safety and general welfare; and
  - 3. Be injurious to the property or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.
- B. The granting of the proposed conditional use permit is consistent and compatible with the goals and policies of the comprehensive plan, and any code, ordinance, regulation or standard in effect to implement the plan.
- C. The proposed use is properly located in relation to other land uses, transportation and public facilities and services in the vicinity; and further, that the capacity of the transportation system and other public facilities and services will adequately serve the proposed use without placing an undue burden on such systems, facilities and services.

D. The intensity (i.e., the nature, types and hours of human activity) and character of the proposed use is compatible with the intensity and character of the uses of adjacent property and of property in the vicinity.

E. That the site is of sufficient size to accommodate the proposed use; and further that, in the opinion of the city, all yards, open spaces, landscaping, walls and fences, parking, loading, and other necessary features are properly provided to assure the proposed use will be compatible with adjacent uses and the character of the vicinity.

F. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated so as to protect adjacent properties, the vicinity, and the public health, safety and welfare of the community from such hazards.

G. The conditions necessary to mitigate the impacts of the proposed conditional use are capable of reasonable monitoring and reasonable enforcement.

#### **18A.30.140 Conditions of approval.**

The city may impose any condition of approval on a conditional use permit needed to mitigate adverse impacts to the environment, adjacent properties or the community, consistent with the goals and policies of the comprehensive plan, and any code, ordinance, regulation or standard in effect to implement the plan.

#### **18A.30.150 Minor modifications to approved conditional use permits.**

A minor modification to an approved CUP is a Type I action and shall be processed in accordance with the procedures for such actions as set forth in LMC Section 18A.30.080 and in accordance with the provisions of this section. Minor modifications to an approved CUP shall be defined as those which do not increase the intensity of the use and the resulting impacts to the surrounding area.

A. The community development director is authorized to allow minor modifications in accordance with subsection B of this section. The community development director shall allow only such minor modifications as are consistent with guidelines established in subsection B of this section.

B. For the purposes of this section, “minor modification” means a departure from the conditions of an approved CUP which is consistent with the following criteria:

1. It does not in any way change the use permitted by the approved CUP;
2. It maintains the design intent and quality of the original approval;
3. The number of dwelling units in residential developments and the square footage of nonresidential structures shall not increase;

4. The minor modification shall not relocate a building, parking area, street or other use or built feature in such a way that visual, light, noise, vibration or other impacts as experienced from surrounding properties and public rights-of-way are intensified, and shall not reduce any required yard, setback, buffer or open space below the area or dimensions established by code or conditions of CUP approval, whichever is more restrictive;
5. The height of buildings and other structures shall not increase;
6. Traffic volumes shall not increase;
7. Modifications to internal circulation layout are acceptable; provided, that ingress and egress points to the subject property are not modified in such a way that external traffic patterns are affected or impacts increased;
8. Minor changes to plant species, variety, color, etc., may be made; provided, that the type of landscaping required pursuant to BMC 12.18.040 shall not be modified;
9. The adjustment does not add significant new environmental impacts or significantly increase environmental impacts disclosed in the original SEPA documents;
10. The community development director determines that the change will not increase any adverse impacts or undesirable effects of the project, or that the change in no way significantly alters the project.

**18A.30.160 Time frame for submission of construction permits.**

A complete application of all required construction level permits shall have been submitted to the city for approval within three (3) years of the date of conditional use permit approval.

**18A.30.170 SEPA-exempt conditional uses.**

The director may authorize any conditional use that is exempt from the State Environmental Policy Act. See WAC 197-11. Notice of such proposed use shall be sent to property owners within three hundred (300) feet of the subject site, consistent with the notice requirements specified in LMC 18A.30 Part III. If anyone requests a public hearing in writing within the specified comment period, the director shall refer the request to the Hearing Examiner. Copies of all director decisions shall be mailed to everyone who commented on the project or requested a copy of the decision. Director decisions may be appealed to the Hearing Examiner consistent with LMC Section 18A.30.410, Appeals/reconsiderations.

**18A.30.180 Compliance - conditional use permit.**



Noncompliance with the conditions of the permit shall be grounds for rehearing before the Hearing Examiner, in addition to fines and penalties. The Hearing Examiner may suspend or revoke a conditional use permit pursuant to this section and/or impose penalties, for violation of any of the provisions of this title or original conditions of approval.

**18A.30.190 Transferability - conditional use permit.**

A Conditional Use Permit shall be transferable provided that the transferee complies with the conditions. If at any time the conditional use no longer complies with the conditions of the permit, the owner shall be declared in violation of this title and shall be subject to fines and penalties, and the Hearing Examiner may suspend or revoke the permit.

**18A.30.200 Essential public facilities - conditional use permit.**

A conditional use permit is required for all essential public facilities as listed in LMC Section 18A.30.060(A). In addition to the regular conditional use permit review criteria, essential public facilities are subject to additional criteria as outlined in LMC Section 18A.30.060(B)(2).

**18A.30.210 Special needs housing - conditional use permit.**

A conditional use permit is required for all special needs housing listed in LMC Section 18A.30.120. In addition to the regular conditional use permit review criteria, essential public facilities are subject to additional criteria as outlined in LMC Section 18A.30.120(B)(3).

## **PART III – COTTAGE HOUSING**

### **18A.30.220 Purpose – Cottage housing.**

Cottage housing provides for a specific residential development type (“cottage housing”) featuring modestly sized single family detached residences with commonly held community amenities, and oriented around commonly held open-space areas. Specific design standards must be met. An increase in allowable density over the maximum density allowed in the underlying zoning district is provided as an incentive to encourage development of this type of housing, and in recognition of the reduced impacts expected from this type of housing versus typical single-family residential development. This housing type is intended to:

- A. Promote a variety of housing choices to meet the needs of a population diverse in age, income, household composition, and individual needs.
- B. Provide opportunities for more affordable housing choices within single-family neighborhoods.
- C. Encourage creation of functional usable open space in residential communities.
- D. Promote neighborhood interaction and safety through design.
- E. Ensure compatibility with neighboring land uses.
- F. Provide opportunities for infill development that support the growth management goal of more efficient use of urban residential land.

### **18A.30.230 Applicability.**

- A. Cottage housing is permitted in the R1, R2, R3 and R4 zoning districts. The provisions of individual zoning districts shall be applicable to cottage housing developments; provided, that where a conflict exists, the provisions of this section shall have control.
- B. A cottage housing permit is a Type II administrative permit and shall be considered in accordance with the procedures for such permits as set forth in LMC Chapter 18A.20, Administration.

### **18A.30.240 General provisions.**

- A. Cottage housing projects are permitted with the approval of a Cottage Housing Development Plan. Discrete ownerships may only be created through the residential binding site plan and/or condominium declaration process pursuant to RCW Chapter 64.34 as applicable. Cottage housing development plans shall be subject to review and approval as

an administrative review Process II permit procedures. Adherence to all applicable development standards shall be determined by the City's Community Development Director as a component of the review process.

B. Individual cottage units shall contain at least eight hundred (800) and no more than one thousand five hundred (1,500) square feet of gross floor area. A covenant restricting any increases in unit size after initial construction shall be recorded against the property. Vaulted space shall not be converted into habitable space.

C. A community building of up to 2,500 square feet in size may be provided for the residents of the cottage housing development. Roof pitch, architectural themes, materials and colors shall be consistent with that of the dwelling units within the cottage housing development.

D. Accessory dwelling units shall not be permitted in cottage housing developments.

#### **18A.30.250 Development standards.**

Cottage housing development shall be subject to the following development standards.

A. Density.

1. In the R1 and R2 zoning districts, cottage housing development shall be allowed a density not to exceed three (3) times the base density allowed in the underlying zone.

2. In R3 and R4 zoning districts, cottage housing developments shall be allowed a density not to exceed two (2) times the base density allowed in the underlying zone.

3. On a site to be used for a cottage housing development, existing detached single-family residential structures, which may be nonconforming with respect to the standards of this section, may be permitted to remain at the discretion of the community development director, but the extent of the nonconformity shall not be increased. The number of any such nonconforming dwelling unit(s) shall be multiplied by the factors noted in sections 1 or 2 above, and included in calculating the density of the cottage housing development.

4. An applicant for a cottage housing development shall be required to show, through a conceptual site plan, the number of traditional units that could be constructed on the site under conventional development standards and addressing any environmental constraints affecting the property. This number of units shall be used to calculate the maximum number of cottage units that may be constructed on the property.

B. Locational Criteria.

1. The minimum area for a cottage housing project is 0.75 acre, which may include more than one contiguous lot.
2. Cottage housing development shall be separated from another cottage housing development by a minimum of 400 feet measured between the closest points of the subject properties.

C. Site Design.

1. Cottage housing development shall be clustered and shall consist of a minimum of four (4) dwelling units and a maximum of twelve (12) dwelling units.
2. At least seventy-five (75) percent of dwelling units shall abut the common open space.
3. Common open spaces shall have dwelling units abutting at least two (2) sides.
4. Creation of individual lots shall only be permitted through the residential binding site plan process provided in Title 17 Subdivisions, Chapter 17.34 LMC and Chapter 64.34 RCW.
5. Siting of dwelling units or common open space in areas with slopes exceeding fifteen (15) percent is discouraged. Dwelling units shall not be placed in such areas if extensive use of retaining walls is necessary to create building pads or open space areas.
6. Fencing and Screening. The intent of internal decorative fencing and screening is to delineate private yards, screen parking areas and structures, community assets, refuse and recycling areas, and unit walls. A cottage housing development is intended to be an internally open community sharing common areas. The intent of external fencing and screening is to conceal the higher density development from adjacent lower density land uses. Chain link and solid fences shall not be allowed internally. Solid fencing is allowed on the perimeter boundary, except where bordering an external street where streetscape landscaping is required.

D. Setbacks and building separation.

1. Dwelling units shall have at least a twenty (20) foot front setback, eight (8) foot side yard setback and a ten (10) foot rear setback.
2. Dwelling units shall be separated from one another by a minimum of ten (10) feet, not including projections.
3. Dwelling units shall maintain a ten (10) foot separation between buildings.

4. Dwelling units not abutting or oriented toward a right of way shall have a front yard oriented towards the common open space.
  5. The approval authority may use appropriate discretion, consistent with the intent of this chapter, in determining orientation of yards.
- E. Minimum Lot Size. Beyond the density restrictions listed in this chapter, there is no required minimum lot size for lots created through the subdivision process.
- F. Lot Coverage (all impervious surfaces). Impervious Surfaces shall not exceed fifty (50) percent. Lot coverage shall be calculated for the overall cottage housing development, not for individual lots. Paved components of common open space areas and walkways shall not be counted in lot coverage calculations.
- G. Refuse and Recycling. Refuse and recycling containers shall be screened from view by landscaping or architectural screening, and shall not be located in the front yard setback area, or in locations where smells may be offensive to adjacent properties.
- H. Pedestrian Network. Within the confines of the cottage housing development a network of pedestrian pathways shall be provided. Connections to the wider neighborhood shall be made where appropriate and allowed. All such pathways shall be accessible by the general public, except that walkways into and through the cottage housing development may be limited to residents and their guests.

**18A.30.260 Open space.**

- A. A minimum of five hundred (500) square feet of common open space shall be provided per dwelling unit.
- B. Common open space shall be a minimum of three thousand (3,000) square feet in size, regardless of number of dwelling units.
- C. No dimension of a common open space area used to satisfy the minimum square footage requirement shall be less than ten (10) feet, unless part of a pathway or trail.
- D. In subdivisions and short subdivisions, common open space shall be located in a separate tract or tracts.
- E. Required common open space shall be divided into no more than two (2) separate areas per cluster of dwelling units.
- F. Common open space shall be improved for passive or active recreational use. Examples may include but are not limited to courtyards, orchards, landscaped picnic areas or gardens. Common open space shall include amenities such as but not limited to seating, landscaping, trails, gazebos, barbecue facilities, covered shelters or water features.

G. Surface water management facilities may be commonly held, but shall not counted toward meeting the common open space requirement.

H. Parking areas, required setbacks, private open space, and driveways do not qualify as common open space area.

I. Landscaping located in common open space areas shall be designed to allow for easy access and use of the space by all residents, and to facilitate maintenance needs. Where feasible, existing mature trees should be retained.

**18A.30.270 Building design standards.**

A cottage housing development is expected to reflect a coherent and high quality design concept and include architectural elements that ensure compatibility with existing neighborhood development and character. The following design elements are intended to provide compatibility with existing residential environments. Alternative designs may be submitted to the community development director for review and approval, but the community development director must find that any such concepts meet or exceed the design quality of the prescriptive standards, and fulfill the stated purpose and intent of this chapter.

**A. Building Height.**

1. The maximum building height for dwelling units shall be twenty-five (25) feet.
2. The maximum building height for garages, community buildings, and accessory structures shall be eighteen (18) feet.

**B. Roofs.**

1. Dwelling units shall have a minimum 6:12 roof pitch. Up to thirty-five (35) percent of roof area may have a slope not less than 4:12. Portions of a roof with a pitch of less than 6:12 shall be limited to architectural features such as dormers, porch roofs and shed roofs.
2. Garages and carports shall have a minimum 6:12 roof pitch.
3. Cottages shall be a maximum of two (2) stories. Any upper floor shall be located within the roof structure, not below it, in order to reduce building massing as much as possible.

**C. Entries and Porches.**

1. Each dwelling unit abutting a public right of way (excluding alleys) shall have a primary entry and covered porch a minimum of eighty (80) square feet in size, oriented toward the public right of way. If abutting more than one public right of

way, the developer and City shall collaborate with the project proponent to determine which right of way the entrance and covered porch shall be oriented toward.

2. Each dwelling unit shall have an entry and covered porch oriented toward the common open space. If the dwelling unit abuts a public right of way, this may be a secondary entrance, and the minimum porch size shall be fifty (50) square feet. If not abutting a public right of way, this shall be the primary entrance, and the minimum porch size shall be eighty (80) square feet.

3. Covered porches shall be a minimum of six (6) feet deep.

D. Dwelling units shall not include attached garages

E. Detached garages. Each dwelling unit shall have no more than one detached garage. The size of the garage shall not exceed two hundred and fifty (250) gross square feet in size. Garages can be combined into one garage structure; however, no garage structure may exceed one thousand (1,000) square feet in size for a total not to exceed four garage spaces.

F. Community development director review. The community development director shall consider all aspects of the project, and shall ensure that the project is well designed and compatible with existing and planned development in the vicinity. Possible topics for review by the include community development director (but are not necessarily limited to): building materials and finishes, articulation and modulation, massing, trim details, colors, exterior lighting, special building heights, paving materials, mechanical equipment screening, fencing, tree retention and landscaping.

### **18A.30.280 Parking.**

A. A minimum of 2.0 parking spaces per cottage shall be provided for the entire development. An additional fifteen (15) percent of total required spaces shall be designated for guests.

B. All or a portion of new on-street parking provided as a component of the development may be counted towards minimum parking requirements if the approval authority finds that such parking configuration will result in adequate parking, and is compatible with the character and context of the surrounding area.

C. Carports are prohibited in cottage housing development.

D. Shared detached garages and surface parking design. Parking areas should be located so their visual presence is minimized and associated noise or other impacts do not intrude into public spaces. These areas should also maintain the single-family character along public streets.

1. Shared detached garage structures may not exceed four (4) garage doors per building, and a total of one-thousand (1,000) square feet.
2. For shared detached garages, the design of the structure must be similar and compatible to that of the dwelling units within the development.
3. Shared detached garage structures and surface parking areas must be screened from public streets and adjacent residential uses by landscaping, consistent with LMC Section 18A.60.160, or architectural screening.
4. Shared detached garage structures shall be reserved for the parking of vehicles owned by the residents of the development. Storage of items which preclude the use of the parking spaces for vehicles is prohibited.
5. Surface parking areas may not be located in clusters of more than four (4) spaces. Clusters must be separated by a distance of at least 20 feet.
6. The design of garages must include roof lines similar and compatible to that of the dwelling units within the development.
7. Parking lots shall be set back at least twenty (20) feet from front property lines and ten (10) feet from external side and rear property lines.
8. Garage doors shall not be oriented toward a public right of way with the exception of an alley.
9. Garages and carports shall not be located between the common open space and the dwelling units.

**18A.30.290 Common area maintenance.**

Cottage housing development shall be required to implement a mechanism, acceptable to the approval authority, to ensure the continued care and maintenance of all common areas including common open space, parking, surface water management facilities (if applicable) and any other common area or shared facilities. Such a mechanism shall include creation of either a homeowners' or condominium association with authority and funding necessary to maintain the common areas.

**18A.30.300 Low impact development standards.**

A. The proposed site design shall incorporate the use of low impact development (LID) strategies to meet storm water management standards. LID is a set of techniques that mimic natural watershed hydrology by slowing, evaporating/transpiring, and filtering water, which allows water to soak into the ground closer to its source. The design should seek to meet the following objectives:



1. Preservation of natural hydrology.
2. Reduced impervious surfaces.
3. Treatment of storm water in numerous small, decentralized structures.
4. Use of natural topography for drainage ways and storage areas.
5. Preservation of portions of the site in undisturbed, natural conditions.
6. Reduction of the use of piped systems. Whenever possible, site design should use multifunctional open drainage systems such as vegetated swales or filter strips which also help to fulfill landscaping and open space requirements.

**18A.30.310 Modifications.**

Applicants may request modifications to the open space, site design, design standards, setbacks and parking provisions of this chapter. The approval authority may modify the above referenced provisions of this chapter if both of the following apply:

- A. The site is constrained due to unusual shape, topography, easements or critical areas; and
- B. The modification will not result in a project that is less compatible with neighboring land uses than would have occurred under strict adherence to the provisions of this chapter.
- C. The approval authority may permit modifications to the building design standards if it finds the alternative design concept provides a high level of design quality and compatibility with the character of the surrounding neighborhood.

## **PART IV – DEVELOPMENT AGREEMENT**

### **18A.30.320 Authority.**

A. The execution of a development agreement is a proper exercise of city police power and contract authority. The city may consider, and enter into, a development agreement with a person having ownership or control of real property within the city limits. The city may consider a development agreement for real property outside of the city limits but within the urban growth area (“UGA,” as defined in RCW 36.70A.030(15), or as designated by the county pursuant to RCW 36.70A.110) as part of a proposed annexation or a service agreement.

B. A development agreement shall be consistent with applicable development regulations adopted by the City under Chapter 36.70A RCW.

### **18A.30.330 Type of action.**

A development agreement is a Type V-B legislative action and shall be considered in accordance with the procedures for such permits as set forth in LMC 18A.20 Administration.

### **18A.30.340 Content.**

A. The development agreement must include the following:

1. The development standards and other provisions that shall apply to and govern and vest the development, use and mitigation of the development of real property for the duration of the agreement;
2. Project components which define and detail the permitted uses, residential densities, nonresidential densities and intensities, building sizes, or nonresidential floor area;
3. Location of buffers, landscaping or open space;
4. The amount and payment of impact fees imposed or agreed to in accordance with any applicable provisions of state law, local ordinance, any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications;
5. Mitigation measures, development conditions and other requirements of Chapter 43.21C RCW;

6. Design standards such as architectural treatment, maximum heights, setbacks, landscaping, drainage and water quality requirements and other development features;
7. Provisions for affordable housing;
8. Parks and common open space preservation;
9. Review procedures and standards for implementing decisions;
10. A build-out or vesting period for application standards;
11. Any other appropriate development requirement or procedure which is based upon a city policy, rule, regulation or standard; and
12. Phasing.

B. The development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to the public health or safety.

**18A.30.350 Application.**

Consideration of a development agreement may be initiated by City Council, City Staff, or applicant. Any person may personally, or through an agent, propose a development agreement regarding property he or she owns. The applicant shall file a complete development agreement application on forms provided by the Department. At minimum, such application shall include a copy of the proposed agreement, applicable fee, names and address of all current owners of real property, and all real property within 300 feet of each boundary of the subject property as shown in the records of the county assessor, and a vicinity map showing the subject property with enough information to locate the property within the larger area. In addition, the applicant may be required to submit any additional information or material that the Director determines is reasonably necessary for a decision on the matter.

**18A.30.360 Timing of public hearings.**

Any development agreement associated with a specific project or development plan shall be heard by the City Council prior to consideration of any related project application.

**18A.30.370 Notice.**

Prior to the public hearing held by the City Council, the Director shall issue a public hearing notice describing the purpose of hearing, the date, time, and place of the public hearing, the name of the applicant and the project name (if applicable), a description of the proposed agreement, and the street address of the subject property or other description of its location, a statement of the availability of the record, a statement of the right of any person to submit

written comments to the Council and to appear at the public hearing to give comments. The Director shall distribute this notice and require at least one public notification sign in accordance with LMC Section 18A.30.310.

**18A.30.380 Staff report.**

The Director shall prepare a staff report for the public hearing by the City Council containing all pertinent application materials, all comments regarding the matter received by the Department prior to distribution of the staff report, an analysis of the application under the relevant provisions of this chapter and state law, and a recommendation on the matter. At least seven calendar days before the hearing, the Director shall distribute the staff report to the applicant and each person who has specifically requested it.

**18A.30.390 Public hearing and city council action.**

The City Council shall consider the proposed development agreement at and following the public hearing. The decision of City Council on a development agreement is the final decision of the City. Notice of the final decision by the City Council shall be mailed to the applicant, to any person who submitted comments to the City Council, and to any other person who has specifically requested it. A development agreement shall be recorded with the Pierce County Records Department.

**18A.30.400 Term of agreement.**

During the term of the development agreement, the agreement is binding on the parties and their successors. Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. The development agreement and the development standards in the agreement govern during the term of the agreement, or for all or part of build-out period specified in the agreement, and may not be subject to an amendment to a zoning ordinance, development standard, or regulation adopted after the effective date of the agreement. A permit or approval issued by the City after the execution of the development agreement shall be consistent with the development agreement. Amendments to the terms of the development agreement shall be done only by a written instrument executed by all parties pursuant to the procedures of this article, or as may be amended. The City will process and decide upon an application for an amendment upon payment of applicable fees, as if it were an application for a new development agreement.

## **PART V - LAND USE REVIEW AND APPROVAL**

### **18A.30.410 Purpose – land use review and approval.**

The purpose of this section is to allow for the placement of uses permitted by Title 18A of the Lakewood City Code, through a comprehensive site plan review process, which insures compliance with the adopted plans, policies and ordinances of the City of Lakewood. It is further intended to provide for the examination of development proposals with respect to overall site design and to provide a means for guiding development in logical, safe and attractive manners.

### **18A.30.420 Type of action.**

Land use review and approval is either a Type I or Type II action and shall be considered in accordance with the procedures for such permits as set forth in LMC 18A.20 Administration.

### **18A.30.430 Applicability.**

Construction and development of projects reviewed through the Land Use Approval process shall be in strict compliance with the approved site plan and conditions attached thereto. When required by this section, site plan review and land use approval shall be completed and all appeal periods terminated prior to issuance of a building or any other construction permit. Land use approval is required for the following types of projects:

- A. Any change of occupancy of a building from one International Building Code group or division of a group to another or a change of use of land;
- B. Any new nonresidential and nonagricultural use of land;
- C. The location or construction of any nonresidential or nonagricultural building, or any multifamily project in which more than four (4) dwelling units would be contained; and
- D. Any addition to such structure or remodel or substantial revision of the site plan associated with such use.

### **18A.30.440 Delegation of authority.**

The director may delegate review and approval of a proposed land use and associated improvements to the fire marshal, planning manager, building official and/or city engineer, as deemed appropriate by the director.

### **18A.30.450 Application –content.**

Each application for land use approval shall contain all required information as set forth in the approved land use application together with the following information:

- A. A complete environmental checklist, when required by the State Environmental Policy Act;
- B. All fees, signatures and information specified in the approved application form;
- C. Complete application(s) for all associated non-construction approvals or permits required by this code, including but not limited to concept design review, conditional use approval, shoreline development, site plan review, variance, preliminary plat approval, and rezone.

**18A.30.460 Application – review process.**

A. Filing.

- 1. Applications for land use approval shall be made on forms provided by the Director and made available at the Department.
- 2. A complete application for land use approval shall be filed with the department. An application shall not be considered complete if it fails to contain any of the information and material required by LMC Section 18A.30.040 and LMC Section 18A.30.050.
- 3. Upon determination of a complete application, the Department shall notify all appropriate recognized neighborhood associations.
- 4. Application fee(s) as established by the City are due upon presentation of an application for land use approval.

B. Review by Director.

- 1. The site plan review committee is hereby established and shall consist of the building official, planning manager, city engineer, SEPA official, and the fire marshal or their designees. The committee shall be chaired by the director or his/her designee and serves in an advisory capacity to the director, who shall be responsible for all land use related decisions. The committee shall adopt rules of procedure for the purpose of ensuring fair, lawful and timely recommendations.
- 2. Except when a public hearing is required or where the applicant agrees to an extension of time, the director shall, within one hundred twenty (120) days from the date of complete application, approve, disapprove or approve with conditions any proposed land use. Notice of the director's decision or recommendation shall be distributed as provided by LMC Section 18A.20.310.

3. When a public hearing is required prior to land use approval, the Director shall issue his/her recommendation to the Hearing Examiner in a manner that will provide the Hearing Examiner sufficient time to issue a notice of final decision within 120 days of the date of complete application.

4. Any time required to prepare, review and issue a final environmental impact statement as required under the provisions of SEPA shall not be included under the time constraints of this subsection.

5. The Director shall review proposed projects for consistency with the standards and provisions of the City of Lakewood as expressed in the various adopted plans and ordinances, including this Title.

6. Whenever the Director denies land use approval, he/she shall set forth, in writing, his/her findings which shall specify the reasons for the disapproval. Unless a public hearing is otherwise required, the decision of the director shall be final unless appealed to the Hearing Examiner pursuant to LMC Chapter 1.36, General Provisions and LMC 18A.30 Part IV.

C. Referral to Hearing Examiner. If in the Director's opinion a project is extraordinarily complex or presents significant environmental, design or compatibility issues, the Director may refer the project for a public hearing before the Hearing Examiner. A decision of the Director to refer a project to the Examiner may be made at any time.

D. Hearing Examiner. Any review by the Hearing Examiner shall be conducted according to the procedural requirements of LMC Chapter 1.36, General Provisions and LMC 18A.20 Part IV.

**18A.30.470 Site plan review log – summary of action.**

On the first work day following action of the Director, the Hearing Examiner or City Council on a project, the action shall be entered into the permit tracking system maintained by the Department.

**18A.30.480 Notification.**

Notice of the decision of the director, or hearing examiner shall be mailed to the applicant within seven (7) calendar days following the action.

**18A.30.490 Reconsideration in response to SEPA comments.**

Any interested person may submit written comments and request reconsideration by the Director within fifteen (15) days of the date any decision attached to a SEPA threshold determination is issued. Unless further action is taken by the Director in response to such comments, the period in which to file an appeal shall terminate twenty-one (21) days after

the date the decision is issued. SEPA exempt actions of the committee shall not be subject to reconsideration and shall be subject to only a fourteen (14) day appeal period.

**18A.30.500 Amendments.**

A project approved by the Director, or Hearing Examiner may be amended at the applicant's request by the same procedures provided under this chapter for original application approval.

**18A.30.510 Dedication, improvements and performance bond.**

As a condition of land use approval, an applicant may be required to dedicate property, construct public improvements, and furnish a performance bond to the City to secure an obligation to complete the provisions and conditions of the project as approved.

**18A.30.520 Final approval – expiration.**

Unless utilized by application for unexpired construction permits or explicitly extended by the Director, the final approval of a land use application shall expire in one (1) year pursuant to LMC Section 18A.20.100.



## PART VI – PLANNED DEVELOPMENT

### 18A.30.530 Purpose.

A planned development district is a mechanism by which the City may permit a variety in type, design, and arrangement of structures; and enable the coordination of project characteristics with features of a particular site in a manner consistent with the public health, safety and welfare. A planned development district allows for innovations and special features in site development, including the location of structures, conservation of natural land features, protection of critical areas and critical area buffers, the use of low impact development techniques, conservation of energy, and efficient utilization of open space.

### 18A.30.540 Application.

A. A PDD is a Type III action and shall be considered in accordance with the procedures for such permits as set forth in LMC Chapter 18A.20 Administration.

B. An application for approval of a PDD shall be submitted to the Community and Economic Development Department on forms provided by the Department along with established fees. For those planned development districts that include the division of land, a PDD application shall only be accepted as complete if it is submitted concurrent with an application for preliminary plat approval that includes all information required pursuant to LMC Title 17 and other applicable City regulations. Twenty-five copies of all associated application materials must be submitted in hard copy format. Digital application materials (e.g., CD copies) may fulfill a portion of the required hard copy applications as approved by the City.

An applicant for a PDD shall submit the following items to the City, unless the director finds in writing that one or more submittals are not required due to unique circumstances related to a specific development proposal:

1. A detailed narrative that includes:
  - a. A description detailing how the proposed development will be superior to or more innovative than conventional development methods as allowed under the City's land use regulations and how the approval criteria set forth in **LMC 18A.40.540 [verify cite]** have been satisfied;
  - b. A description of how the proposed PDD will benefit the public in a manner greater than that achieved if the project was to be developed using conventional land use regulations;

- c. A table illustrating the density and lot coverage of the overall development, with the proportion of the site devoted to open space clearly indicated;
  - d. A description of the types and numbers of dwelling units proposed and the overall land use density and intensity;
  - e. A description of the proposed open space and recreation areas including any proposed improvements, including specific details regarding the ownership and maintenance of such areas;
  - f. Detailed information regarding all proposed landscaping that is not included on an associated landscaping plan;
  - g. A description of the specific City standards as set forth in the underlying zoning district that the applicant is proposing for modification in accordance with LMC Chapter 18A.20; and
  - h. A description of potential impacts to neighboring properties and how impacts have been mitigated through site design, screening, buffering and other methods.
- 2. A site plan with the heading “Planned Development District Site Plan” that includes any additional information that is not included on the standard preliminary plat map, including building footprints, proposed landscaping, open space and parks and/or recreational areas including trails and proposed setbacks;
  - 3. Elevation drawings illustrating facade and building design elements, including height, overall bulk/mass and density and proposed residential design features that will provide for a superior development;
  - 4. A conceptual landscape plan/map showing the proposed location and types of vegetation and landscaping. The landscape plan may also be incorporated into the PDD site plan and narrative;
  - 5. A phasing plan, if the development will occur in distinct phases with a written schedule detailing the timing of improvements;
  - 6. A draft development agreement, if proposed by the applicant or as required by the City; and
  - 7. A draft of proposed covenants, conditions and restrictions demonstrating compliance with this chapter.
- C. An applicant shall provide sufficient facts and evidence to enable the Hearing Examiner to make a decision. The established fee shall be submitted at time of application.

D. Notice of application shall be provided pursuant to LMC Section 18A.30.330.

**18A.30.550 Public hearing.**

A. The Hearing Examiner shall hold an open record public hearing on any proposed conditional use and shall give notice thereof in accordance with the procedures established pursuant to LMC 18.20 Part III.

B. The hearing shall be conducted in accordance with the requirements of LMC 18.20 Part II, Public Notice Requirements.

**18A.30.560 Required findings.**

A PDD shall only be granted after the Hearing Examiner has reviewed the proposed use and has made written findings that all of the standards and criteria set forth below have been met or can be met subject to conditions of approval:

A. The PDD is consistent with the comprehensive plan; and

B. The PDD, by the use of permitted flexibility and variation in design, is a development practice that results in better urban design features than found in traditional development. Net benefit to the City may be demonstrated by one or more of the following:

1. Placement, type or reduced bulk of structures, or
2. Interconnected usable open space, or
3. Recreation facilities, or
4. Other public facilities, or
5. Conservation of natural features, or
6. Conservation of critical areas and critical area buffers beyond, or
7. Aesthetic features and harmonious design, or
8. Energy efficient site design or building features, or
9. Use of low impact development techniques;

C. The PDD results in no greater burden on present and projected public utilities and services than would result from traditional development and the PDD will be served by adequate public or private facilities including streets, fire protection, and utilities; and

D. The perimeter of the PDD is compatible with the existing land use or property that abuts or is directly across the street from the subject property. Compatibility includes but is not limited to size, scale, mass and architectural design of proposed structures; and

E. Landscaping within and along the perimeter of the PDD is superior to that required by LMC Section 18A.70.150 [verify cite], and landscaping requirements applicable to specific districts contained in LMC Section 18A.70.160 [verify cite], and enhances the visual compatibility of the development with the surrounding neighborhood; and

F. At least one major circulation point is functionally connected to a public right-of-way; and

G. Open space within the PDD is an integrated part of the project rather than an isolated element of the project; and

H. The design is compatible with and responds to the existing or intended character, appearance, quality of development and physical characteristics of the subject property and immediate vicinity; and

I. Roads and streets, whether public or private, within and contiguous to the site comply with guidelines for construction of streets; and

J. Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project; and

K. Each phase of the proposed development, as it is planned to be completed, contains the required parking spaces, open space, recreation space, landscaping and utility area necessary for creating and sustaining a desirable and stable environment.

**18A.30.570 Action of hearing examiner.**

A. In addition to demonstrating compliance with the criteria as determined by the Hearing Examiner, the applicant shall accept those conditions that the Hearing Examiner finds are appropriate to obtain compliance with the criteria.

B. In permitting a PDD, the Hearing Examiner may impose any or all of the following conditions:

1. Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
2. Establish a special yard or other open space or lot area or dimension.
3. Limit the height, size or location of a building or other structure.

4. Designate the size, number, location or nature of vehicle access points.
  5. Increase the amount of street dedication, roadway width or improvements within the street right-of-way.
  6. Designate the size, location, screening, drainage, surfacing or other improvement of parking or truck loading areas.
  7. Limit or otherwise designate the number, size, location, and height of lighting of signs.
  8. Limit the location and intensity of outdoor lighting or require its shielding.
  9. Require screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
  10. Design the size, height, location or materials for a fence.
  11. Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
  12. Require provisions for public access, physical and visual, to natural, scenic and recreational resources.
  13. Require provisions for stormwater drainage including designating the size, location, screening, or other improvements of detention ponds and other facilities.
  14. Impose special conditions on the proposed development to ensure that development is in conformance with the surrounding neighborhood and the intent and purpose of the zoning district classification.
  15. Require such financial guarantees and evidence that any applied conditions will be complied with.
- C. The decision of the Hearing Examiner is considered final and conclusive by the City.

**18A.30.580 Minimum size.**

Planned development districts may be located on lots of two acres or greater; when necessary, the applicant must demonstrate the preservation of a significant natural feature (examples: wetlands, tree preservation, creeks and steep slopes), enhanced urban design, or amenity by the use of the planned development district process.

**18A.30.590 Permitted modifications.**

A. All zoning, site development, and subdivision requirements may be modified in a planned development district in the interest of the expressed purposes above except:

1. Permitted uses, and conditional uses;
2. Street setbacks on exterior streets in residential zones;
3. Surveying standards; and
4. Engineering design and construction standards of public improvements but not including street right-of-way width.

**18A.30.600 Permitted residential density and lot sizes.**

A. The number of dwelling units permitted in a planned development district may exceed the development standards found in LMC Section 18A.60.030. The permitted density shall be the maximum number of dwelling units allowed per gross acre (DUA) and shall be as follows:

1. R1 zoning district: 2 DUA;
2. R2 zoning district: 4 DUA;
3. R3 zoning district: 7 DUA;
4. R4 zoning district: 9 DUA.

B. The minimum lot sizes in gross square feet (GSF) for the residential zoning districts subject to the planned development district overlay shall be as follows:

1. R1 zoning district: 20,000 GSF;
2. R2 zoning district: 10,000 GSF;
3. R3 zoning district: 6,000 GSF;
4. R4 zoning district: 4,800 GSF.

C. The residential density and lot size standards of all other zoning districts are not subject to change.

**18A.30.610 Required open space and recreation facilities.**

In planned development districts, 20 percent of the net development area shall be established as open space and/or planned development district community recreation facilities. Upon approval of the Hearing Examiner, up to five percent of the unbuildable

land may be considered for inclusion in the required open space land upon a showing that such lands can and will be used for a specified recreational purpose.

**18A.30.620 Multiple zoning districts.**

If a planned development district is proposed within two or more zoning districts, the maximum number of dwelling units will be the total allowed in each zone combined. The permitted land uses of the more restrictive zone shall apply to the entire planned development district.

**18A.30.630 Binding site plan.**

A binding site plan is required for all planned development districts and shall include:

- A. All information required on a preliminary plat;
- B. The location of all proposed structures;
- C. A detailed landscape plan indicating the location of existing vegetation to be retained, location of vegetation and landscaping structures to be installed, the type of vegetation by common name and taxonomic designation, and the installed and mature height of all vegetation;
- D. Schematic plans and elevations of proposed buildings with samples of all exterior finish material and colors, the type and location of all exterior lighting, signs and accessory structures;
- E. Inscriptions or attachments setting forth the limitations and conditions of development;
- F. An outline of the documents of the owners' association, bylaws, deeds, covenants and agreements governing ownership, maintenance and operation of the planned development district shall be submitted with the binding site plan. Planned development district covenants shall include a provision whereby unpaid taxes on all property owned in common shall constitute a proportioned lien on all property of each owner in common. The City may require that it be a third party beneficiary of certain covenants with the right but not obligation to enforce association-related documents; and
- G. The provisions ensuring the development will be in conformance with the site plan.

**18A.30. 640 Phased development.**

If a planned development district is planned to be completed in more than two years from the date of preliminary plat/site plan approval, the planned development district will be divided into phases or divisions of development, numbered sequentially in the order construction is to occur. The binding site plan for each phase shall be approved separately.

Each division of development in a multiphase planned development district shall meet all the requirements of a planned development district independently.

**18A.30.650 Required certificates and approvals.**

Binding site plans shall include all the required certificates of a final plat. PDDs shall be subject to design review in accordance with LMC 18A.60 Part I [\[verify cite\]](#).

**18A.30.660 Expiration.**

Approval of a binding site plan expires unless recorded by the county auditor within three years from the date of approval. An applicant who files a written request with the City Clerk within 30 days of the expiration date shall be granted a one-year extension upon a showing of a good faith effort to file the site plan.



## PART VII – REZONE AND TEXT AMENDMENTS

**[VERIFY ACCURACY – replace w/ QJCU language]**

### **18A.30.670 Authority.**

The City Council may, upon its own motion, amend, supplement or change by ordinance, any of the provisions, use district boundaries or use district classifications herein established.

In the case of site-specific rezones which do not require a Comprehensive Plan Amendment, and privately initiated rezones which require a Comprehensive Plan Amendment, the Council shall first review the recommendation of the Planning Commission.

Accordingly, the Department shall forward all proposed text amendments and rezone, i.e., zoning map amendment, proposals to the Planning Commission for review and recommendation, and to the City Council for consideration, review and action.

### **18A.30.680 Site-specific rezone procedures.**

In the case of site-specific rezones which do not require a Comprehensive Plan Amendment, the rezone application review shall follow the procedures outlined in this Chapter, in **LMC Section 18A.20.310 [VERIFY]**.

### **18A.30.690 Collection of rezone applications.**

Site-specific rezone applications may be submitted at any time. However, for review purposes, such proposals will be collected into two (2) sets in each calendar year. Unless otherwise specifically authorized by the City Council:

- A. Proposals submitted between April 1st and September 30th shall be considered collectively and voted upon by the City Council by March 31st of the following year.
- B. Proposals submitted between October 1st and March 31st shall be considered collectively and voted upon by the City Council by September 30th of the same year.
- C. Proposals will be considered no more than twice each year.
- D. Time limits for review shall be as established in LMC Section 18A.120.090, provided that the review period shall start on the latest submittal dates established under (A) and (B) of this section and not the date of application.

**[Quasi-Judicial Code Updates - verify cites & content with pending Council action]**

## Part VIII – TEMPORARY USE PERMITS

### 18A.30.700 Purpose.

The provisions of this section are designed to provide standards and criteria for temporary relief to situations resulting from strict application of this title. Provisions authorizing temporary uses are intended to permit occasional temporary uses, activities and structures when consistent with the purpose of this title and when compatible with the general vicinity and adjacent uses

### 18A.30.710 Permitted uses.

The following types of temporary uses, activities and associated structures may be authorized, subject to specific limitations in this section and such additional conditions as may be established by the Director:

- A. Circuses, carnivals, rodeos, fairs or similar transient amusement or recreational activities.
- B. Christmas tree sales lots, flower stands, and similar seasonal sales facilities limited to location on non-residential lots in commercial or industrial zoning districts. Specific facilities that are reestablished on the same site and at the same intensity every year may be reauthorized as a minor amendment to the original permit.
- C. Mobile home residences used for occupancy by supervisory and security personnel on the site of an active construction project.
- D. Temporary use of mobile trailer units or similar portable structures for nonresidential purposes, located in districts where the intended use is permitted.
- E. Seasonal retail sales of agricultural or horticultural products raised or produced off the premises, permitted in commercial or industrial zoning districts only.
- F. Neighborhood or community garage or rummage sales, block parties, parades or holiday celebrations, and other similar neighborhood or community activities. The Director may exempt certain fund-raising or other activities by non-profit organizations from the permit requirements of this section where it is determined that the proposed activity is not likely to have adverse impacts on surrounding land uses or the community in general.
- G. The Director may authorize additional temporary uses not listed in this subsection when it is found that the proposed uses are in compliance with the requirements and findings of this section.

### 18A.30.720 Exemptions.

The following temporary uses, activities and structures may be exempted from the requirement to obtain a temporary use permit upon the determination by the Director that the use, activity or structure is expected and/or normal or customary for the facility or property where it is occurring, and that the expected impacts of the use, activity or structure have been anticipated or are regulated directly by other sections of this code:

- A. Model homes or apartments and related real estate sales and display activities located within a subdivision or residential development to which they pertain.
- B. Indoor or outdoor art and craft shows and exhibits, swap meets and flea markets, limited parking lot and sidewalk sales and displays, warehouse sales and similar activities limited to locations on properties in commercial or industrial districts, where such activities have been anticipated and/or are considered customary for the facility, and which do not result in significant impacts on adjacent public and private properties and are conducted by the business licensed for the property. Parking lot sales that displace or interfere with required off-street parking shall require a temporary use permit.
- C. Contractor's office, storage yard and equipment parking and servicing on or adjacent to the site of an active construction project; provided that the Director may require a temporary use permit or condition such facilities to resolve site specific issues. This exemption does not include caretaker quarters or other residential uses or dwellings, which are otherwise regulated.
- D. The Director may authorize automatic or abbreviated renewal provisions for any temporary use permit. Such provisions shall be specified in the terms of the original permit.

**18A.10.730 Application and authorization.**

- A. A temporary use permit is a Process I action and shall be considered in accordance with the procedures for such permits as set forth in LMC 18A.20 Administration.
- B. Temporary use applications shall be on a form prescribed by the community and economic development department and shall include all of the information and materials required by the application form. An applicant shall provide sufficient facts and evidence to enable the Director to make a decision. The established fee shall be submitted at time of application.
- C. Applications for temporary use permits shall be filed with the community and economic development department. Application shall be made at least fifteen (15) days prior to the requested date for commencement of the temporary use.
- D. A temporary use authorized pursuant to this section shall be subject to all of the applicable standards of LMC 18A.30.740, Standards for Temporary Use, and shall not be exempted or relieved from compliance with any other ordinance, law, permit or license applicable to such use, except where specifically noted.

**18A.30.740 Standards.**

- A. Each site occupied by a temporary use shall be left free of debris, litter or other evidence of temporary use upon completion or removal of the use.
- B. A temporary use conducted in a parking facility shall not occupy or remove from availability more than twenty (20) percent of the spaces required for the permanent use.
- C. Each site occupied by a temporary use must provide or have available sufficient off-street parking and vehicular maneuvering area for customers. Such parking must provide safe and efficient interior circulation and ingress and egress from the public right-of-way.
- D. No temporary use shall occupy or use public rights-of-way, parks or other public lands in any manner unless specifically approved by the City Council.
- E. No temporary use shall occupy a site or operate within the city for more than forty-five days (45) days within any calendar year, except as follows:
  - 1. When authorized by the Director, a temporary use may operate an additional forty-five (45) days if it is found that such an extension will be consistent with the requirements of LMC 18A.30.700 Purpose, LMC 18A.30.710 Permitted Uses, and 18A.30.740 Standards for Temporary Use.
  - 2. A temporary use may be provided an additional extension if unique circumstances exist that necessitate a longer use such as construction office or security housing for an active construction site and such an extension will be consistent with the requirements of LMC 18A.30.700 Purpose, LMC 18A.30.710 Permitted Uses, and 18A.30.740 Standards for Temporary Use.
- F. All signs shall comply with the requirements of LMC 18A.100 Signs, except as otherwise specified in this section.
- G. All temporary uses shall obtain all required City permits, licenses or other approvals, prior to occupancy of the site.
- H. The Director may establish such additional conditions as may be deemed necessary to ensure land use compatibility and to minimize potential impacts on nearby uses. These include, but are not limited to, time and frequency of operation, setbacks, special yards, and spaces; control of points of vehicular ingress and egress, temporary arrangements for parking, loading and traffic circulation, requirements for screening or enclosure, site maintenance during use, and guarantees for site restoration and cleanup following temporary use.
- I. Subsequent temporary use permits may be denied to an applicant, event or organization based on failure to comply with the terms of an approved temporary use permit or applicable regulations.

**18A.30.750 Criteria for granting approval.**

A temporary use permit shall only be granted when the Community Development Director, after consultation and coordination with all other applicable City departments and other agencies, has determined that:

- A. The temporary use will be compatible with uses in the general vicinity and on adjacent properties.
- B. The temporary use will not create a material adverse effect on the livability or appropriate development of abutting properties and the surrounding community.
- C. The temporary use will not impair the normal, safe and effective operation of a permanent use on the same site.
- D. The temporary use will comply with the requirements of the zone within which it is proposed.
- E. The temporary use shall comply with all applicable standards of the Tacoma - Pierce County Health Department, if applicable.
- F. In applying temporary use criteria and determination of appropriate conditions, consideration shall be given, but not limited to:
  - 1. The harmony and scale, bulk, coverage, and density.
  - 2. The availability of public facilities and utilities.
  - 3. The harmful effect, if any, upon a desirable neighborhood character.
  - 4. The generation of traffic and the capacity of surrounding streets and roads.
  - 5. The creation of noise, vibration, odors, or other similar nuisances. and
  - 6. Any other relevant impact on the peace, quiet, comfort, and enjoyment by and of the abutting properties and the surrounding community.

**18A.30.760 Decision.**

The Director shall provide the applicant with a written decision, either approving, denying or approving the application with modifications and/or conditions of approval, within fifteen (15) days after the date of submission of a complete application.

## PART IX – TRANSITORY ACCOMMODATIONS

### [NEW TYPE II PERMIT APPLICATION/FORM NEEDED. POTENTIAL “PARKING LOT ITEM”]

#### **18A.30.770 Definition.**

“Transitory accommodations” shall mean tents, sheds, huts, cabins, trailers or other enclosures which are not permanently attached to the ground, may be easily erected and dismantled, and are intended for temporary occupancy, usually for recreational or humanitarian purposes. Transitory accommodations are permitted provided the community development director determines on a case-by-case basis that such use possesses no characteristics which would adversely impact the community in any way, or that any potentially adverse characteristics can be adequately minimized and/or mitigated so as not to be materially detrimental to the community. Transitory accommodations can vary widely in their characteristics, which include but are not limited to size of site, surrounding land uses, duration, number of occupants, noise generation, and light and glare emanation. Accordingly, certain types of transitory accommodations may require the imposition of extensive conditions to mitigate potential adverse impacts to the community, while others may not; in some cases, adequate mitigation of impacts may not be feasible, and a proposed transitory accommodation consequently may not be allowed. The community development director shall therefore have the authority to approve, approve with conditions, or deny a permit for a transitory accommodation proposal, after consideration of the performance criteria set forth herein.

#### **18A.30.780 Process.**

A. A transitory accommodation permit shall be required prior to the commencement of such a use, unless the community development director determines, after consideration of the performance criteria set forth in this section, that the proposed transitory accommodation possesses no characteristics which might adversely impact the community. The prospective transitory accommodation host (property owner and lessee, if applicable), sponsor and manager shall jointly apply for the transitory accommodation permit and shall be equally responsible for compliance with all conditions of the permit. “Applicant,” as used in these regulations, shall mean the transitory accommodation host, sponsor and manager. “Proponent,” as used in these regulations, shall mean the prospective host, sponsor and manager prior to submittal of an application for a transitory accommodation permit.

B. A transitory accommodation permit is a Type II action and shall be processed accordingly, as set forth in LMC 18A.20 Administration. The permit fee shall be established by resolution of the city council.

C. The applicant shall identify potential adverse effects of the proposed transitory accommodation on neighboring properties and the community and shall develop measures to mitigate such effects. The applicant shall submit a transitory accommodations impact mitigation plan with the permit application. The plan shall contain a narrative and drawing(s) that describe, to the satisfaction of the community development director, the

measures the applicant will use to mitigate the effects of the transitory accommodation. At a minimum, the plan shall specifically describe the measures that will be implemented to satisfy the approval criteria provided in LMC Section 18A.30.820 [verify cite], except for criteria specifically waived by the Director.

The plan shall include a code of conduct and the names and phone numbers of all persons comprising the applicant. The form and organization of the mitigation plan shall be as specified by the community development director, but the elements of the plan shall be bound together. The approved transitory accommodation impact mitigation plan shall be signed by the community development director and the applicant, and implementation and enforcement of the plan shall be a condition of permit approval.

D. Advance discussions with nearby child care facilities and schools.

1. Prior to applying for a transitory accommodation permit, the proponent shall provide written notice to any licensed child care facility and the administration of any public or private elementary, middle, junior high or high school within 600 feet of the boundaries of the proposed transitory accommodations site, and shall seek comments from said child care facility and school administration.
2. Where no comments are received, or where said child care facility(ies) or the administration of said school(s) is supportive of the proposal, the proponent shall submit an affidavit to this effect with the application.
3. Where said child care facility(ies) or the administration of said school(s) registers objections or concerns regarding the proposed transitory accommodations, the proponent shall attempt to resolve such objections or concerns via a negotiated mitigation plan between the proponent and the child care facility(ies) or school(s). Such a plan shall be submitted with the application and shall be incorporated in the conditions of the permit. Where the negotiations do not result in a mutually agreed upon mitigation plan within 30 days of receipt by the child care facility or school administration of the initial notice from the proponent, but the parties desire to continue to pursue resolution of the issues, the parties may request mediation services from or through the city. In the event the parties cannot reach agreement after a good faith effort of at least 30 days from receipt by the child care facility or school administration of the initial notice from the proponent, the proponent may submit an application but shall provide a record of the negotiations between the parties, including but not limited to copies of all correspondence and meeting notes. In evaluating the application against the performance criteria set forth herein, the director shall consider the topic(s) of the unsuccessful negotiations and the extent to which the parties demonstrated good faith in their discussions. "Good faith" in this context shall mean a recognition of the legitimacy of, and a willingness to reasonably accommodate, each party's needs, desires and concerns.

E. Decisions of the director and/or police chief may be appealed. Such appeals shall be heard and decided by the hearing examiner in accordance with the procedures set forth in LMC Chapter 1.36 General Provisions and LMC 18A.20 Part IV.

F. Emergencies. The community development director may waive these requirements when a natural or manmade disaster necessitates the immediate establishment of transitory accommodations.

G. Failure to Comply. If a transitory accommodation permit has been issued, and the applicant has violated the terms therein, the City shall proceed with enforcement action pursuant to LMC, Title 1, Chapter 1.44, General Penalties. Additionally, the director may also issue a notice of violation and require compliance. Failure to correct any violation after a reasonable time for compliance shall result in revocation of the permit. In such an event all activities associated with the accommodation shall cease immediately and the site shall immediately be vacated and restored to its pre-accommodation condition.

#### **18A.30.790 Site performance criteria.**

A. Size. The site shall be of sufficient land area to support the activities of the transitory accommodation without overcrowding of occupants, intruding into required setbacks or critical areas, destroying vegetation, eroding soils or otherwise overtaxing the land. Where deemed necessary by the community development director, the applicant shall provide a site plan indicating the location of the proposed transitory accommodation on the host property; its area in square feet; and the proposed distribution of, and allocation of space for, anticipated activities including but not limited to sleeping, eating, socializing, and bathing and other personal functions.

B. Setbacks from Property Line. All activities of the transitory accommodation shall be set back from adjacent properties a sufficient distance so as not to impinge upon or otherwise unduly influence activities on said adjacent properties. The transitory accommodation shall be positioned on the property in the location that results in the least adverse impact to occupants of neighboring properties. The community development director may require the applicant to change the proposed location of the transitory accommodation to mitigate adverse impacts to occupants of neighboring properties. Where deemed necessary by the community development director, the applicant shall provide a site plan indicating buildings and uses on properties surrounding the proposed transitory accommodation, and the distance the proposed accommodation would be set back from surrounding property lines. A transitory accommodation shall be set back no less than 20 feet from the exterior boundary lines of adjacent properties unless the owners of such properties consent in writing to a reduction or waiver of such setback.

C. Screening of Activities. Where deemed necessary by the community development director, activities of the transitory accommodation shall be obscured from view from adjacent properties, by a minimum six-foot-high temporary fence, an existing fence, existing dense vegetation, an existing topographic difference, distance from exterior property lines, or other means, to the maximum extent feasible.



D. **Parking.** Adequate parking for the transitory accommodation shall be provided so as not to reduce parking utilized by existing surrounding uses. Where deemed necessary by the community development director, the applicant shall provide a proposed parking plan which addresses the following:

1. A description of parking capacity, both on-site and on-street, that describes the amount and location of parking prior to the transitory accommodation and any displacement of parking resulting from the transitory accommodation; and
2. Any circumstances which may reduce the normal demand for parking, such as off-peak-season use; and/or any mechanisms or strategies to reduce parking demand, such as the provision of shuttle buses for the use of occupants of the transitory accommodations, or the provision of shared parking agreements with adjacent uses.

E. **Access to Public Transportation.** Where occupants of a proposed transitory accommodation are anticipated to walk to public transportation services, said accommodation shall be located no farther than one-half mile walking distance from a regular public transportation stop.

F. **Critical Areas.** All proposed transitory accommodations shall comply with the city's critical areas regulations as set forth in Chapter 14.04 BMC. Where deemed necessary by the community development director, the applicant shall provide a site plan indicating the presence and extent of any critical areas.

G. **Restoration of Site.** Upon cessation of the temporary accommodation, the site shall be restored, as near as possible, to its original condition. Where deemed necessary by the community development director, the applicant shall re-plant areas in which vegetation had been removed or destroyed.

**18A.30.800 Duration performance criteria.**

Length of time. The proposed transitory accommodations shall be in operation the minimal length of time necessary to achieve the recreational, humanitarian or other objective(s) of the applicant. Where deemed necessary by the community development director, the applicant shall provide a narrative explaining the objective(s) the applicant seeks to achieve, and the amount of time the applicant believes necessary to achieve that objective. However, under no circumstances shall a proposed transitory accommodation be allowed in one location for more than 90 days, either consecutively or cumulatively, during any 12-month period, except that where the ninetieth day falls on a Friday, an additional two days shall be allowed to dismantle and remove the accommodation over the immediately following weekend.

**18A.30.810 Health and safety performance criteria.**

A. Transitory accommodations shall be operated in such a manner as to ensure the health and safety of occupants of the subject and surrounding properties. Accordingly, all transitory accommodations shall comply with the following:

1. Health Regulations. All applicable city, county and state regulations pertaining to public health shall be met.
2. Fire Safety. Inspections of the accommodation by the city for fire safety purposes may be conducted at any time and without prior notice. Adequate access, as determined by the fire marshal, shall be maintained within and around the accommodation at all times to ensure that emergency vehicles can ingress/egress the site.
3. Building Code Inspections. Inspections of the accommodation by the city to ensure the public health and safety with regard to structures may be conducted at any time and without prior notice.
4. Drinking Water and Solid Waste. An adequate supply of potable water shall be available on-site at all times. Adequate toilet facilities shall be provided on-site, as determined by the public works director. All city, county and state regulations pertaining to drinking water connections and solid waste disposal shall be met.
5. Trash. Adequate facilities for dealing with trash shall be provided on-site. A regular trash patrol or other method of regular maintenance in the immediate vicinity of the site shall be provided.

**18A.30.820 Conduct and security performance criteria.**

A. Noise. Any transitory accommodation shall comply with city noise regulations as set forth in Chapter 8.26 BMC. Where deemed necessary by the community development director, the applicant shall provide a plan to mitigate potential noise impacts.

B. Light and glare. Any transitory accommodation shall comply with city light and glare regulations as set forth in Chapter 8.64 BMC. Where deemed necessary by the community development director, the applicant shall provide a plan to mitigate potential light and glare impacts.

C. Security. Any transitory accommodation shall comply with city regulations regarding lawful behavior as set forth in LMC Title 9A Criminal Code. Any transitory accommodation shall provide all required legal access to public areas of the site by the city of Lakewood Police Department and any other relevant law enforcement agency at all times. Additionally, where deemed necessary by the director or the police chief, the applicant shall provide for the following:

1. The applicant shall take all reasonable and legal steps to obtain verifiable identification, such as a valid driver's license, government-issued identification card,

military identification card, or passport, from all prospective and current camp residents.

2. The applicant will use such identification to obtain warrant and sex offender checks from the Pierce County Sheriff's office or other relevant authority. The anonymity of the requesting party shall be maintained.

3. If said check reveals that the subject of the check is a sex offender, required to register with the city, county or state authorities pursuant to RCW 9A.44.130, then the applicant shall immediately reject the subject of the check for residency in the transitory accommodation or eject the subject of the check if that person is currently a resident of the accommodation, and shall immediately notify the Lakewood Police Department of such rejection or ejection.

4. If said check reveals that the subject of the check has an existing or outstanding warrant, then the applicant may select either of the following alternative actions:

1. Immediately reject or eject the subject of the check and immediately notify the Lakewood Police Department of such rejection or ejection; or

2. Request the Lakewood Police Department to confer with the agency or court of jurisdiction from which the warrant originated to determine whether or not said agency or court desires the warrant to be served. If the originating agency or court desires the warrant to be served, the Lakewood Police Department shall do so immediately. If the originating agency or court declines warrant service, due to the minor nature of the offense for which the warrant was issued or for other reasons, the subject may enter or remain in the transitory accommodation; provided, that the applicant actively assists the subject in resolving the warrant.

5. The applicant shall keep a log of all individuals who stay overnight in the transitory accommodation, including names and dates. Logs shall be kept for a minimum of six months.

6. The applicant shall provide on-site security, as approved by the director in consultation with the city of Lakewood Police Department.

D. Code of conduct. The applicant shall provide and enforce a written code of conduct which mitigates impacts to neighbors and the community. Said code shall be incorporated into the conditions of approval.

#### **18A.30.830 Other performance criteria.**

A. Indemnification. Except for religious organizations, the applicant shall defend, indemnify, and hold the city, its officers, officials, employees and volunteers harmless from

any and all claims, injuries, damages, losses or suits of any nature, including attorney fees, due to the acts or omissions of the applicant in connection with the operation of the transitory accommodation.

B. **Liability Insurance.** Where deemed necessary by the community development director, with the exception of religious organizations, the applicant shall procure and maintain in full force, through the duration of the transitory accommodation, comprehensive general liability insurance with a minimum coverage of \$1,000,000 per occurrence/aggregate for personal injury and property damage.

C. **Other Criteria.** Where deemed necessary, the community development director may identify other performance criteria; require the applicant to describe the potential impacts of the proposed transitory accommodation with respect to those criteria; and determine if measures are warranted to minimize or otherwise mitigate such impacts.

## **PART X – VARIANCE**

### **18A.30.840 Purpose.**

A variance shall not relieve an applicant from any of the procedural provisions of this title, conditions of approval established during prior permit review, any of the provisions of the critical areas code, except for the required buffer widths. The variance process shall not allow the establishment of a use that is not otherwise permitted in the zoning district in which the proposal is located or allow development that would result in an increase in density or a reduction in the minimum lot size.

### **18A.30.850 Type of action.**

A variance is a Type III action and shall be considered in accordance with the procedures for such permits as set forth in LMC 18A.20 Administration.

### **18A.30.860 Limitations.**

A variance shall not relieve an applicant from any of the procedural provisions of this title, conditions of approval established during prior permit review, any of the provisions of the critical areas code, except for the required buffer widths. The variance process shall not allow the establishment of a use that is not otherwise permitted in the zoning district in which the proposal is located or allow development that would result in an increase in density or a reduction in the minimum lot size.

### **18A.30.870 Authority.**

The hearing examiner shall have the authority to grant a variance after considering the matter at a public hearing duly called and giving notice to adjoining property owners as provided in LMC Section 18A.20.310, Public Notice Framework.

### **18A.30.880 Required findings.**

A. Before any variance is granted, the hearing examiner shall find that the following circumstances exist:

1. That the proposed variance will not amount to a rezone or constitute a change in the district boundaries shown on the Official Zoning Map;
2. That because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property the variance is necessary to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located;

3. That the special conditions and circumstances do not result from the actions of the applicant;
4. That granting of the variance will not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property is located;
5. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated; and
6. That the variance is the minimum variance necessary to provide the rights and privileges described above.

**18A.30.890 Additional conditions of approval.**

Before granting a variance, the hearing examiner may prescribe appropriate conditions and safeguards that will ensure that the purpose and intent of this Title shall not be violated. Noncompliance with the conditions of the permit shall be grounds for rehearing before the Hearing Examiner, in addition to fines and penalties under LMC Chapter 1.44, General Penalties. The Hearing Examiner may suspend or revoke a variance pursuant to this section for violation of any of the provisions of this title or original conditions of approval.

## **PART XI - UNUSUAL USES**

### **18A.30.900 Purpose.**

Certain unusual uses, which are not identified in LMC Title 18A may be allowed by the hearing examiner if such use will have no detrimental effect on other properties in the vicinity. In authorizing uses of this type, the hearing examiner shall impose limits and conditions necessary to safeguard the health, safety and general welfare of those persons that might be affected by the use.

### **18A.30.960 Type of action.**

An unusual use is a Type III action and shall be considered in accordance with the procedures for such permits as set forth in LMC 18A.20 Administration.