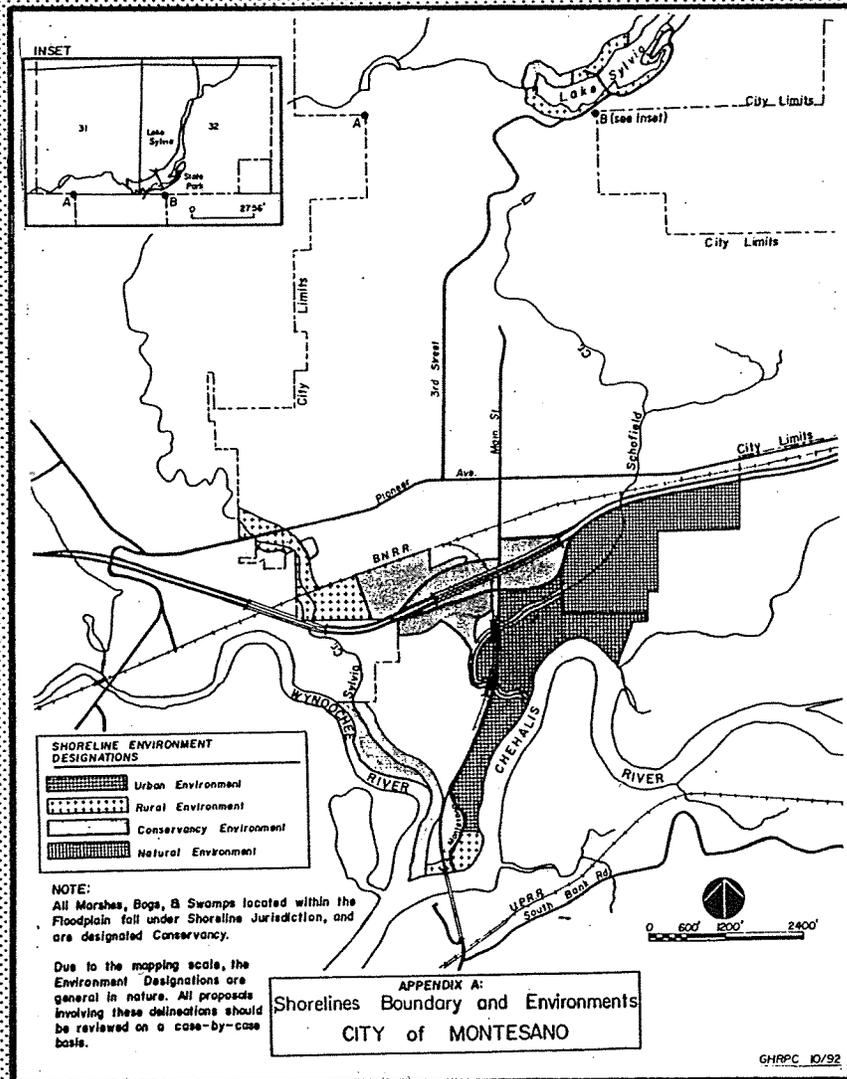
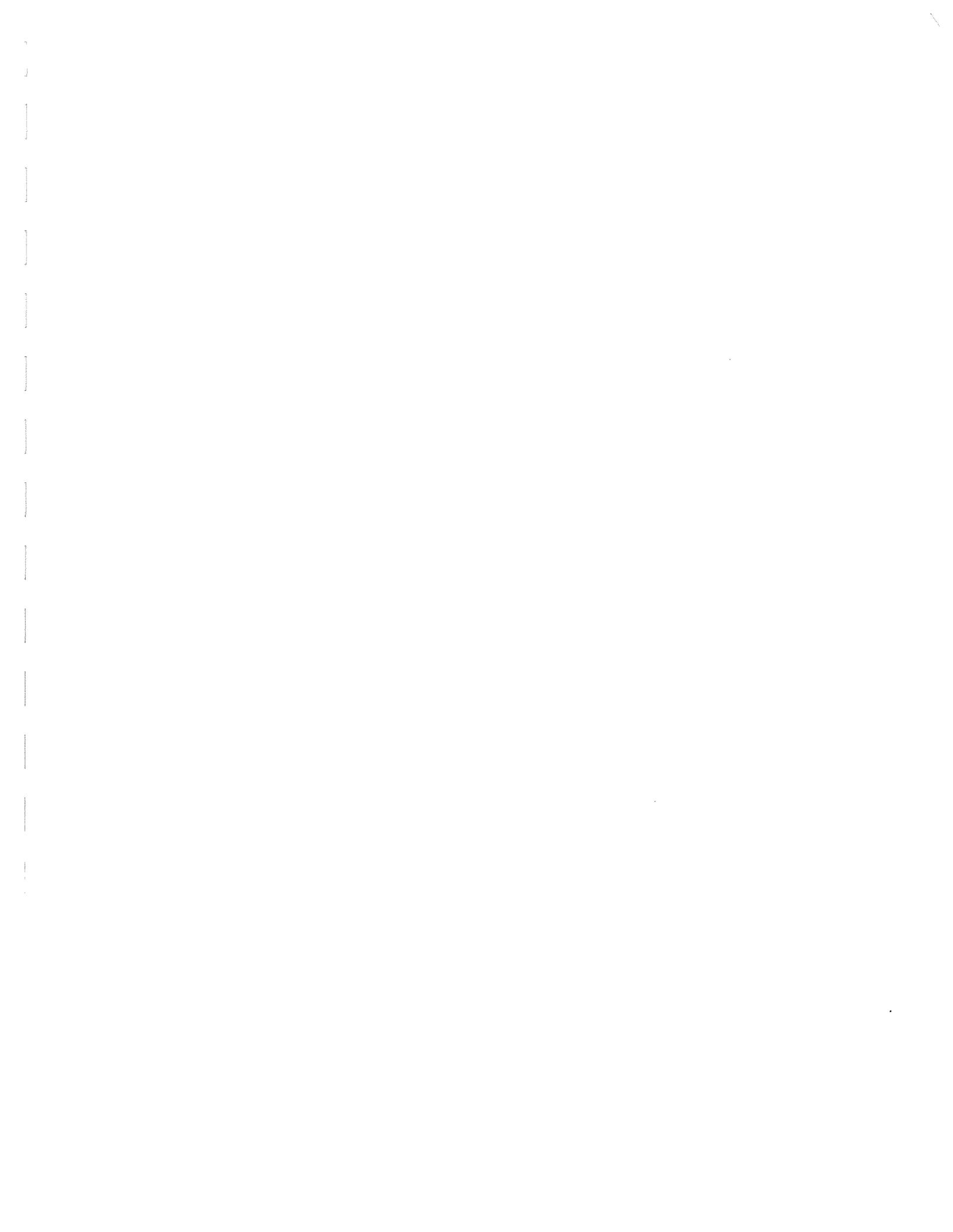


# City of Montesano

# Shoreline Master Program





ORDINANCE NO. 1333

AN ORDINANCE ADOPTING A SHORELINES MASTER PROGRAM AND PROVIDING FOR AN EFFECTIVE DATE.

R E C I T A L S :

1. The City of Montesano has land and water within the City subject to the jurisdiction of the Shorelines Management Act.

2. The Shorelines Management Act requires that local governments prepare a Master Program to guide and manage the development of the areas within the Act's jurisdiction.

3. The Montesano Shoreline Citizen Advisory Committee has prepared a Shorelines Master Program for the City after consultation with citizens, property owners, and governmental agencies.

4. The Advisory Committee has conducted all necessary public hearings on the proposed program and recommends approval.

5. All necessary hearings have been held; all necessary notices given; and all necessary environmental reviews conducted.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS BY THE CITY COUNCIL OF THE CITY OF MONTESANO:

SECTION I: That certain document entitled "City of Montesano Shoreline Master Program" consisting of nine chapters, one appendix, and a map as on file in the Office of the Clerk-Controller and signed by the Mayor is hereby adopted by reference as the Shoreline Master Program for the City.

SECTION II: The Clerk-Controller is directed to forward a copy of this Ordinance and the adopted program to the Department of Ecology for approval and adoption into the State Shoreline Management Master Program.

SECTION III: Chapters 1 through 9 and Appendix A, as well as the map of the adopted program, shall be codified in Title XIV of the City Code.

SECTION IV: This Ordinance shall take effect five days after publication of a Synopsis of the Ordinance to the extent such may be allowed by law: PROVIDED that in any event, it shall go into effect no later than the date upon which the City receives confirmation that the Washington State Department of Ecology has approved this plan for inclusion into the State Master Program.

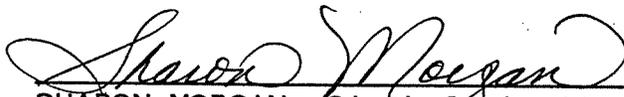
PASSED THIS 10th day of November, 1992, by the City Council of the City of Montesano, and signed

In approval therewith this 10th day of November,  
1992.

CITY OF MONTESANO:

  
A. L. JACK FROST, Mayor

ATTEST:

  
SHARON MORGAN, Clerk-controller

APPROVED AS TO FORM:

  
DANIEL O. GLENN, City Attorney

PUBLISHED: November 19, 1992



# **City of Montesano**

## **Shoreline Master Program**

Prepared by:

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October 1992

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**City of Montesano**  
**Shoreline Master Program**

City of Montesano

**MAYOR:**  
A.L. "Jack" Frost

**CITY COUNCIL:**

Douglas George  
Anna Harbell  
Jeff Meeks  
Debbie Parks  
C. Farrell Presnell  
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A special acknowledgement is due the following individuals for their contribution to this report:

Dan Cardwell  
Fred Kiser  
Dennis Lefevre  
Robin Green Mosman  
Mike Persky  
Tim Scherer  
Doug Taylor

# MONTESANO SHORELINE MASTER PROGRAM

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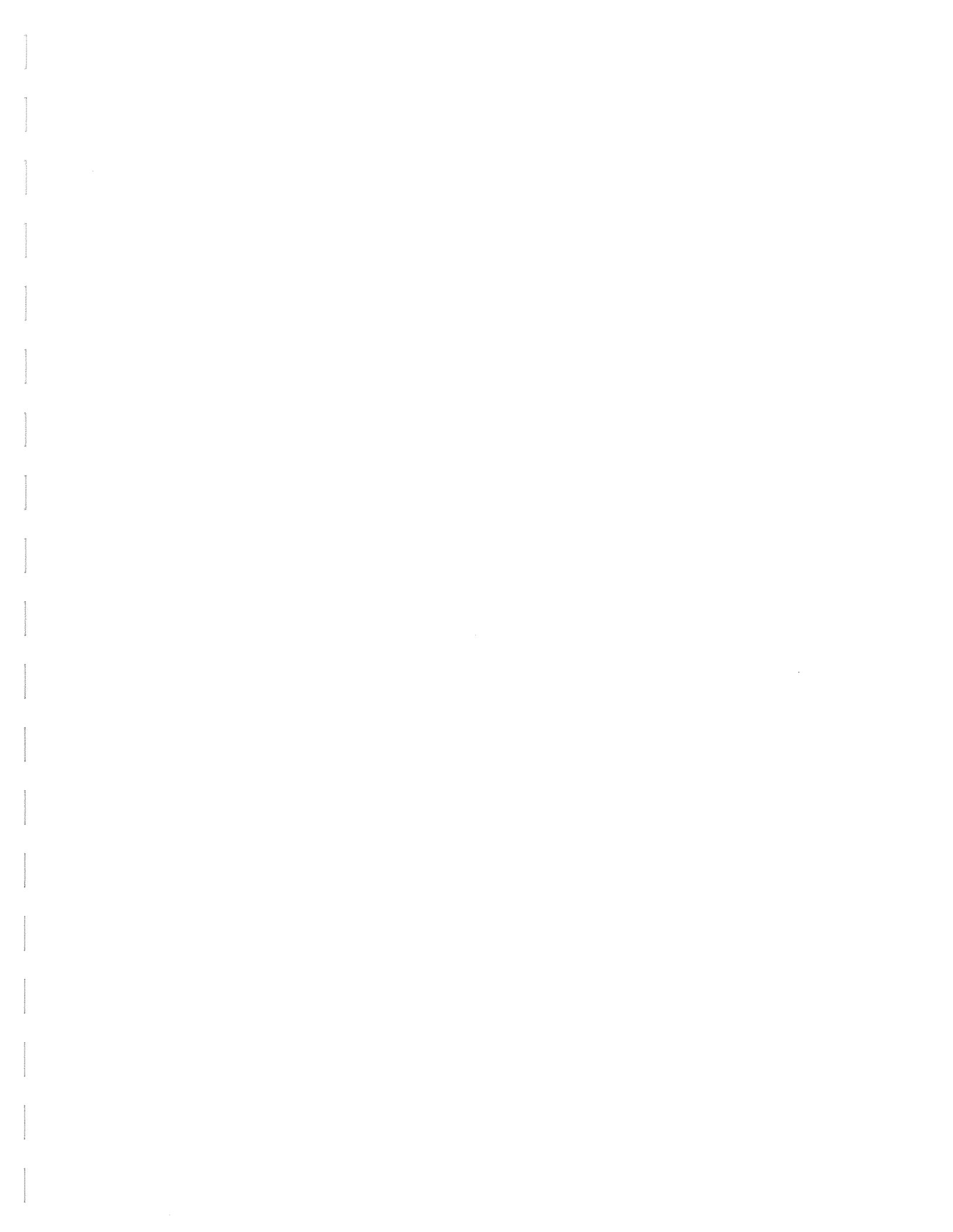
# **MONTESANO SHORELINE MASTER PROGRAM**

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## **Chapter 1.00 Introduction**

Enactment of the Shoreline Management Act in 1971 (RCW 90.58) reflected a growing concern among the residents of Washington State with the adverse effects of unplanned and uncoordinated development on the State's shorelines. While the Act provides the basis for the management and regulation of shoreline development, it also aims to foster and plan for all reasonable and appropriate shoreline uses which enhance and conserve shorelines rather than detract from them.

The Shoreline Management Act establishes a cooperative program of shoreline management between Local Government and the State. Local Government has the primary responsibility for initiating and administering the regulatory program for shoreline development. The Washington State Department of Ecology acts primarily in a supportive and review capacity with primary emphasis on ensuring consistency with the policy and provisions of the Act and local shoreline programs.

Four (4) environmental designations have been developed which apply to the shorelines of Montesano: (1) Urban Environment, (2) Rural Environment, (3) Conservancy Environment, and (4) Natural Environment. Each environment's designation is delineated geographically and regulations are outlined for activities and development within each area.

**Process:** In accordance with Washington State guidelines for the development of a Shoreline Master Program, a Shoreline Advisory Committee was established in January 1986. This advisory committee consisted of the City of Montesano Planning Commission, as well as other individuals within the community chosen because of their broad based representation of interests. These individuals represented landowners, industry, the general public, and representatives of state agencies. Staff assistance was provided by the City of Montesano and the Grays Harbor Regional Planning Commission. Numerous public meetings were conducted during the program development process to gather and obtain local citizen comment. The Shoreline Master Program was then forwarded to the Montesano City Council to incorporate further citizen input and for final approval and adoption.

**Applicability:** The provisions of the Montesano Shoreline Master Program apply to all lands and waters (including submerged lands to the centerline of the Chehalis and Wynoochee Rivers) in the City of Montesano which have been determined by the City of Montesano as being under the jurisdiction of the Washington State Shoreline Management Act of 1971, as amended. Chapter 90.58.303 (2) (f) RCW requires the Department of Ecology to designate the boundaries of shorelines of the state; the boundary of wetlands are governed by the criteria set forth in Chapter 173-22-040 WAC. These lands and waters are shown on the City of Montesano Shoreline Environment Designation Map in Appendix A of this Shoreline Master Program. An official copy of this map is on file with the City of Montesano City Clerk-Controller at the Montesano City Hall.

This Shoreline Master Program shall apply to any individual, partnership, corporation, association, organization, public or municipal corporation, or agency of the state or local government unit. For applicability of the Montesano Shoreline Master Program to federal agencies, refer to Chapter 173-14-062 WAC.

**Relationship to Other Regulations:** The shoreline permitting process for a development or use does not exclude the applicant from complying with any other local, state, regional or federal statutes or regulations which may also be applicable to such development or use.

Other local state and federal statutes or regulations together with their implementing regulations which may be applicable to shoreline development or use may include, but are not limited to, the following:

1. Local:
  - a. City of Montesano Zoning Ordinance
  - b. City of Montesano Building, Plumbing, Mechanical, and Fire Code
  - c. City of Montesano Subdivision Ordinance
  - d. County Health Department Regulations
  
2. State:
  - a. Forest Practices Act; RCW 76.09
  - b. Fisheries Code; RCW 75
  - c. Water Pollution Control Act; RCW 90.48
  - d. Land Subdivision Act; RCW 58.17
  - e. Surface Mining Act; RCW 78.44
  - f. Washington State Environmental Policy Act(SEPA); RCW 43.21c
  - g. Water Resources Act of 1971; RCW 90.54
  - h. Game Code; RCW 77
  - i. Shoreline Management Act; RCW 90.58
  - j. Aquatic Lands Act; RCW 79.90
  
3. Federal:
  - a. Rivers and Harbors Act of 1899
  - b. Fish and Wildlife Coordination Act of 1958
  - c. National Environmental Policy Act of 1969
  - d. Coastal Zone Management Act of 1972
  - e. Federal Water Pollution Control Act, as amended (Section 404)
  - f. Flood Insurance Act of 1968, as amended
  - g. National Historic Preservation Act of 1966
  - h. Clean Air Act of 1990

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

## Chapter 2.00 Definition of Terms

### Definitions

**Access roads:** Roads used primarily for access to abutting properties. (See Arterial and Collector Roads).

**Accessory development or uses:** Any structure or use incidental and subordinate to a primary shoreline development or use.

**Act:** Chapter 90.58 RCW, the Shoreline Management Act of 1971, as amended.

**Administrator:** The City of Montesano Building Official or his/her designated representative.

**Agriculture:** Farming or raising of livestock, crops, fruit, nursery stock on land, and may require such development such as buildings, feed lots, fences, ditches, bridges, ponds, wells, grading, as well as use of native pasture and woodlots.

**Agricultural processing (industrial):** Establishments performing a variety of operations on crops subsequent to their harvest, with the intent of preparing them for market or further processing and packaging at a distance from the agricultural area including drying, packaging, sorting and grading.

**Aquacultural processing:** Establishments primarily engaged in performing a variety of operations on aquacultural crops/harvests, with the intent of preparing them for market or further processing and packaging at a distance from the Aquacultural area including drying, packaging, sorting and grading.

**Aquaculture:** The farming of food fish, shellfish, or other aquatic plants and animals in fresh or saltwater areas, and may require development such as fish hatcheries, rearing pens and structures, and shellfish rafts, as well as use of natural spawning and rearing pens.

**Arterial, major collectors:** Roads intended to move through-traffic to and from major attractions such as residential neighborhoods, shopping districts, industrial areas, and similar traffic generators; and/or a route for traffic between communities or large areas.

**Arterials, minor collectors:** Thoroughfares which primarily carry traffic from local roads to major collector arterials. This term may include the principal entrance and circulation routes within residential subdivisions.

**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 the case of structures to be built over water, average grade level shall be the elevation of ordinary high water. Calculation of the average grade level shall be made by averaging the elevations at the center of all exterior walls of the proposed building or structure.

**Best Management Practice (BMP):** Commonly used practices and techniques that are allowed under existing development regulations.

**Boating Facilities:** Marinas, both backshore and foreshore, dry storage and wet moorage types, boat launch ramps, covered moorage, boat houses, mooring buoys and marine travel lifts.

**Bridge:** A structure providing passage over a river or water body.

**Building:** A structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of any person, animal or chattel. When any portion thereof is completely separated from every other portion thereof by a masonry division or firewall without any window, door or other opening therein, which will extend from the ground to the upper surface or the roof at every point, then each such portion shall be deemed to be a separate building.

**Bulkheads and other protective devices:** (See Shorelines Protective works and devices.)

**Campgrounds and recreational vehicle parks:** Transient lodging establishments primarily engaged in renting, leasing or otherwise providing overnight or short-term sites for trailers, campers or tents, with or without individual utility hookups, but with other facilities such as public restrooms.

**Camps and resorts:** Establishments supporting special group activities such as: archery, pistol, rifle, and skeet clubs and facilities; dude ranches; health resorts; hunting and fishing clubs; recreational camps; group or organized camps; incidental, seasonal camping areas without facilities; equestrian facilities, including riding academies, schools, stables, and exhibition facilities.

**Churches and related activities:** Religious organization facilities operated for worship or for promotion of religious activities, including churches and religious schools. Other establishments maintained by religious organizations, such as educational institutions, hospitals and other operations that may be considered commercial in nature, if not run by the religious organization (such as recreational camp) are classified according to their respective activities.

**City of Montesano or city:** The hearing board, administrator, or city council whichever applies.

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

**Commercial:** Establishments which are involved in wholesale and retail trade or business activities.

**Commercial parking lot:** A space for parking vehicles which is not accessory and operated in conjunction with a primary commercial or industrial use or activity. Typically, a facility which charges a fee for vehicle usage.

**Conditional use:** A use permitted in a particular environment only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in the SMP and authorized by the Hearing Board.

**Density:** The total number of square feet in a lot divided by the number of dwelling units located on the lot.

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

**Determination of Non-Significance (DNS):** Under SEPA rules, if the responsible official determines there will be no probable significant adverse environmental impacts from the proposal after reviewing an Environmental Checklist, the lead agency shall prepare and issue a Determination of Non-Significance.

**Development:** A use consisting of the construction or exterior alteration of structures; dredging; drilling, dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level.

**Director:** The director of the Washington State Department of Ecology.

**Docks or piers:** Structures generally built from the shore extending out over the water to provide moorage for commercial and/or private recreation watercraft or float planes or for water oriented recreation use. They do not include floats, covered moorages, boat houses, water ski jumps, or launch ramps.

**Dredging:** The removal or displacement of earth such as gravel, sand, mud, or silt and/or other materials or debris from any stream, river, lake, or marine water body and associated shorelines and wetlands.

**Dredge spoil:** The material removed by dredging.

**Dredge spoils disposal:** The depositing of dredged materials on land or into water bodies.

**Duplex dwelling:** (See Multi-family residential structure).

**Dwelling:** One or more habitable rooms for one family with facilities for living, sleeping, cooking, and eating.

**Environmental Impact Statement (EIS):** A statement addressing the effects of development proposals and other major actions which significantly affect the environment.

**Environmentally Sensitive Areas:** Those areas with fragile biophysical characteristics and/or with significant environmental resources. Environmentally sensitive areas include but are not limited to: unstable bluffs; wildlife habitat areas; fish breeding, rearing or feeding areas; wetlands; estuaries; dunes.

**Exempt developments:** Certain developments are exempt from the definition of substantial developments are therefore exempt from the substantial development permit process. Exempt developments are listed in Section 3.05 of this SMP.

**Fair market value of a development:** The expected price at which the development can be sold to a willing buyer. For developments which include non-structural operations such as dredging, drilling, dumping, or filling, the fair market value is the expected cost of hiring a contractor to perform the operation or where no such value can be calculated, the total value of labor, equipment use, transportation, and other costs incurred for the duration of the permitted project.

**FCAAP:** The Flood Control Assistance Account Program administered by the Department of Ecology.

**FEMA:** Federal Emergency Management Act.

**Final order:** Includes the approval or disapproval of a permit, or a letter of exemption as set forth in WAC 173-14-115.

**Floodplain:** Synonymous with one hundred-year floodplain and means that land area susceptible to being inundated by stream-derived waters with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulation maps or a reasonable method which meets the objectives of the Act.

**Floodplain fringe:** That fringe of land in the floodplain outside the floodway which is subject to inundation by the base flood.

**Floodway:** Those portions of the area of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition. The floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state. The limit of the floodway is that which has been established in flood regulation ordinance maps or by a reasonable method which meets the objectives of the Act.

**Forest management practices:** Methods and activities used for the protection, production and harvesting of timber products. Such activities include, but are not necessarily limited to road and trail construction, all harvesting phases, thinning, reforestation, fertilization, prevention and suppression of diseases and insects, tree salvage, and debris and brush control. Excluded from this definition is preparatory work such as tree marking, surveying, and removal of incidental vegetation such as berries, greenery, or other natural products whose removal cannot normally be expected to result in damage to shoreline natural features. Log storage away from forest lands is considered under Industry.

**Forest products:** Manufactured items which are produced or processed from timber or timber by-products.

**Group care facility:** A facility which serves persons who are emotionally disturbed or physically or mentally handicapped where personal care is provided. Determination of service providing ability is to be accomplished through state licensing provisions.

**Guidelines:** Those standards adopted by the Department to implement the policy of the Shorelines Management Act.

**Health care services:** Service establishments primarily engaged in providing medical, mental health, surgical and other personal health services including medical, dental, and psychiatric offices; medical and dental laboratories; out-patient care facilities; and allied health services. Also includes hospitals and similar establishments primarily engaged in providing diagnostic services, extensive medical treatment including surgical and other hospital services.

**Height:** Measured from the average grade level to the highest point of the structure: Provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines. Provided further, that temporary construction equipment is excluded in this calculation.

**Hotels and motels:** Commercial transient lodging establishments including hotels, motor-hotels, tourist courts, or cabins, primarily engaged in providing overnight or otherwise temporary lodging with or without meals, for the general public.

**Industrial forestry:** The management of land for the commercial purposes of growing and harvesting trees.

**Local government:** City of Montesano.

**Landfill:** The creation, extension, or raising of land area by filling for depositing sand, soil, gravel, dredge spoils, or other materials onto a shoreline, wetland, or water body area.

**Lot:** A tract of land lawfully established and officially recorded in the County Auditor's Office, whether described by metes and bounds and/or by lot, or by lot and block designation in a recorded plat, which constitutes a unit of land under single ownership. Where an existing or proposed building or development straddles a lot line dividing contiguous lots under the same ownership, the affected lots shall be considered one lot for the purposes of this Ordinance.

**Marinas and boat basins:** Fresh or salt water facilities that provide storage, launch areas, supplies, and services for pleasure and/or fishing craft.

**Marshes, bogs, and swamps:** Lands transitional between terrestrial and aquatic systems where saturation with water is the dominant factor determining plant and animal communities and soil development.

**Master Program:** The comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts or other descriptive material and text, a statement of desired goals and standards developed in accordance with the policies enunciated in RCW 90.58.020.

**Mineral extraction:** The removal of naturally occurring materials from the earth for economic use.

**Multi-family residential structure:** A building designed or used for a residence by more than two households or family units, included but not limited to apartments, condominiums, or duplexes.

**Non-conforming uses:** Shoreline use or structure which was lawfully constructed or established prior to the effective date of adoption or amendment as appropriate, of this program, which is either prohibited by or does not conform to current regulations and policies of this program.

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

**Normal protective bulkheads:** A bulkhead constructed at or near the ordinary high water mark to protect a single family residence and is for protecting land from erosion, not for the purpose of creating land.

**Normal repair:** To restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair involves total replacement which is not common practice or causes substantial adverse effects to the shoreline resource or environment.

**Ordinary highwater mark:** The mark on all lakes, streams, and tidal waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that conditions 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 department.

**Outdoor amusements and recreation services:** Facilities for various outdoor sports and recreation, including: amusements and children parks; golf courses, golf driving ranges and miniature golf courses; skateboard parks; go-cart and miniature auto race tracks; tennis courts, swim and tennis clubs and facilities; play lots, playgrounds and athletic fields (non-professional); recreation and community centers.

**Parking Lot:** The temporary storage of automobile or other motorized vehicles.

**Parks and Playgrounds:** (See outdoor amusements and recreation services).

**Party of record:** All persons who have notified local government of their desire to receive a copy of the final order on a permit under WAC 173-14-070.

**Permit:** Any substantial development, variance, conditional use permit, or revision authorized under chapter 90.58 RCW.

**Person:** An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated.

**Pollution control facility:** A facility designed, built, or installed to service the specific function of treating and or detoxifying waste materials.

**Power generating facility:** A facility designed, built, or installed to produce mechanical or physical energy.

**Professional services:** Service establishments primarily engaged in by engineers, attorneys, architects and other persons providing service utilizing training in and a knowledge of the professional disciplines as, for example, distinguished from training in occupations requiring manual dexterity.

**Public access area and devices:** Structures and developments that provide for public access to publicly owned areas.

**Public building:** A structure open to all persons and/or constructed to serve a particular community need.

**RCW:** Revised Code of Washington.

**Recreation and associated uses:** Recreation is a pastime, sport or exercise as a means of refreshing one's body or mind. Associated uses include modification of the natural or existing environment to accommodate recreation, including land clearing, structures, and other facilities.

**Residential accessory uses and structures:** Any use or structure that is customarily part of a residence and is incidental and secondary to a residence. Such accessory uses do not change the character of the residential use and include the storage of vehicles and other personal property, and accessory structures including garages, studio and workshops.

Residential, single-family dwellings: A detached building designed for and/or occupied exclusively by one family. Mobile homes are included in this definition.

Restoration: The reasonable long-term protection of all resources subject to disruption from surface-excavation through the process of reclamation, including the control of erosion, elimination of conditions that will create a public nuisance and endanger public safety, or be hazardous to vegetative, animal, fish or human life in or adjacent to the area; control of contaminants and disposal of surface mining refuse; and methods of diverting surface waters around the disturbed areas.

Riprap: Hard, angular quarry rock used for streambank stabilization or other flood control works.

School: A place or institution for teaching and learning.

SCS: Soil Conservation Service.

SEPA: State Environmental Policy Act.

Shoreland: The periodically submerged land on the shore of a navigable lake or navigable river upstream of tidal flow between OHWM and the line of navigability.

Shorelines: All of the water areas of the state, including reservoirs, and their associated wetlands, together with the lands underlying them; except (i) shorelines of state-wide significance (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands, associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes: (RCW 90.58.030).

Shorelines hearing board, hearing board, or Montesano Shorelines Board: The shoreline hearings board of the City of Montesano established herein.

Shorelines of statewide significance: A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special preservationist policies apply and where greater planning authority is granted by the Act.

Shorelines of the state: The total of all "shorelines" and "shorelines of statewide significance" within the state.

Shoreline permit: A permit issued by the city of Montesano pursuant to RCW 90.58.140 as required for any substantial development, variance, conditional use, or revision thereof on shorelines of the state.

Shoreline protective works and devices: The modification of rivers or streamway designed to stabilize eroding or erosion prone streambanks, protecting the adjacent property and existing developments. These modifications commonly occur in the form of riprap, revetments, and other structural bank-defensed works.

Signage (accessory): A device of any material or medium, including structural component part, which is used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes.

**Solid waste:** All putrescible and non-putrescible solid and semi-putrescible waste including garbage, ashes and sludge, industrial wastes, swill, demolition and construction wastes, junked vehicles, and any other discarded materials.

**State shoreline hearings board:** A six member quasi-judicial body created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit and appeals by local government on Ecology approval of master programs, rules, regulations, guidelines or designations under Act.

**Structure:** A permanent or temporary 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 vessels.

**Subdivision:** The division or re-division of land into five or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease or transfer of ownership.

**Substantial development:** Any development of which the total cost or fair market value exceeds two thousand five hundred dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state.

**Short Subdivision:** The division or re-division of land into four or fewer lots, tracts, parcels, or sites for the purpose of sale, lease or transfer of ownership, as further defined by the City of Montesano Subdivision Ordinance.

**Terminal, vehicle and freight:** Transportation establishments furnishing services incidental to transportation including: joint terminal and service facilities; trucking facilities, including transfer and storage. Includes both railroad transportation and motor freight transportation.

**Transit station and terminal:** Passenger stations for vehicular transit systems; also terminal facilities providing maintenance and service for the vehicles.

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

**Timber harvesting:** The removal of commercial species forest trees and includes slash disposal and other site preparation.

**Upland:** Those shoreline areas landward of OHWM except natural wetlands.

**Utilities:** Include but are not necessarily limited to facilities and services that generate, transport, process or store water, sewage, solid waste, electrical energy, communications and pipelines for fuel, oil, natural gas, and petroleum products. Also included are fire fighting facilities and administrative structures associated with the operation of the utilities. Utilities are divided into two groups, utility facilities and structures necessary to serve the immediate area, and all others.

**Variance:** A means to grant relief from the specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline.

**Vista point:** Public facilities or areas which are designed to permit viewing of harbor or other shoreline areas.

WAC: Washington Administrative Code.

Water control devices and structures: (See Shorelines Protective works and devices).

Water-dependent: Uses and activities which cannot exist in other than a waterfront location and are dependent upon the water by reason of intrinsic nature of its operation.

Water-enjoyment: A recreational use, or other use facilitating 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 character of the use and which through location, design and operation assure the public's ability to enjoy the physical and aesthetic qualities of the shoreline.

Water-oriented: Refers to any combination of water dependent and/or water enjoyment uses and serves as an all encompassing definition for priority uses under the Act.

Wetlands or wetland areas (jurisdictional): Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways and all floodplain areas south of the freeway and east of Hwy 107 and South Montesano Road; all marshes, bogs, swamps, and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of this chapter and Chapter 90.58 RCW.

Wetlands, associated: Synonymous with "wetlands" or "wetland areas".

Wildlife preserve: A place set aside or dedicated for the protection of animals in their native habitat.

Woodwaste fill: A landfill consisting of wood fibers, timber processing by-products, or yard waste materials from log storage areas.

## Chapter 3.00 Administration

### 3.01 General

There is hereby established an administrative system designed to assign responsibilities for implementation of the Master Program and Shoreline Permit review, to prescribe an orderly process by which to review proposals and permit applications, and to ensure that all persons affected by this Master Program are treated in a fair and equitable manner.

### 3.02 Administrator

- A. The Building Official, or his/her official designee is hereinafter known as the Administrator, is vested with:
1. Overall administrative responsibility for this Master Program;
  2. Authority to approve, approve with conditions, or deny shoreline Substantial Development Permits and permit revisions in accordance with the policies and provisions of this Master Program;
  3. Authority to grant statements of exemption from Shoreline Substantial Development Permits; and,
  4. Authority to determine compliance with RCW 43.21 C, State Environmental Policy Act.
- B. The duties and responsibilities of the Administrator shall include:
1. Establish the procedures and prepare forms deemed essential for the administration of this program.
  2. Advise interested citizens and applicants of the goals, policies, regulations, and procedures of this program.
  3. Make administrative decisions and interpretations of the policies and regulations of this program and the Shoreline Management Act.
  4. Collect applicable fees.
  5. Determine that all applications and necessary information and materials are provided.
  6. Make field inspections, as necessary.
  7. Review insofar as possible, all provided and related information deemed necessary for appropriate application needs.
  8. Determine if a Shoreline Substantial Development Permit, Conditional Use Permit or Variance Permit is required.

9. Conduct a thorough review and analysis of Shoreline Substantial Development Permit Applications; make written findings and conclusions; and approve, approve with conditions, or deny such permits.
10. Submit Variance and Conditional Use Permit Applications and make written recommendations and findings on such permits to the Hearing Board for their consideration and official action. The Administrator shall assure that all relevant information and testimony regarding the application is made available to the Hearing Board during their review.
11. Assure that proper notice is given to appropriate persons and the public for all hearings.
12. Provide technical and administrative assistance to the Hearing Board as required for effective and equitable implementation of this program and the Act.
13. Provide a summary report of the Shoreline Management Permits issued during the past calendar year to the City Council in February of each year. The report should include findings and conclusions on significant administrative determinations and appeals, identification of problem areas and recommendations on how the Master Program can be improved.
14. Inform the citizens of Montesano of the purposes, goals, policies, and regulations of this program and any changes or amendments thereto.
15. Investigate, develop, and propose amendments to this program as deemed necessary to more effectively and equitably achieve its goals and policies.
16. Seek remedies for alleged violations of this program, the provisions of the act, or of conditions of any approved Shoreline Permit issued by the City of Montesano.
17. Coordination of information with affected agencies.

### **3.03 Montesano Planning Commission**

The Montesano Planning Commission, hereinafter known as the Hearing Board, is vested with authority to:

- A. Recommend to the Department of Ecology to approve, approve with conditions, or deny Shoreline Variance and Conditional Use Permits after considering the findings and recommendations of the Administrator; PROVIDED that any decisions on this matter made by the Hearing Board may be further appealed to the State Shorelines Hearings Board as provided for in the Act.
- B. Review and approve any revisions or amendments to the Master Program in accordance with the requirements of the Act and related WACs.
- C. Conduct public hearings and make decisions on appeals of the Administrator's actions, interpretations, and decisions.

- D. At the discretion of the Hearing Board, require any applicant granted a shoreline permit to post a bond or other acceptable security with the City conditioned to assure that the applicant and/or his successors in interest shall adhere to the approved plans and all conditions attached to the shoreline permit. Such bonds or securities shall have a face value of at least 150 percent of the estimated development cost including attached conditions until such time as the project is completed. Such bonds or securities shall be approved as to form by the City Attorney.

### **3.04 County Tax Assessor**

As provided for in RCW 90.58.290, the restrictions imposed upon the use of real property through the implementation of the policies and regulations of the ACT and this Master Program shall be duly considered by the County Assessor and the County Board of Equalization in establishing the fair market value of such properties.

### **3.05 Substantial Development Permits**

Whenever a development falls within the exemption criteria outlined below and the development is subject to a U.S. Army Corps of Engineers Section 10 or Section 404 Permit, the Administrator shall prepare a Statement of Exemption, and transmit a copy to the applicant and the Washington State Department of Ecology. Exempt development as defined herein shall not require a Substantial Development Permit, but may require a Conditional Use Permit, Variance and/or a Statement of Exemption.

The following developments are exempt and shall not require substantial development permits:

- A. Any development of which the total cost or fair market value, whichever is higher, does not exceed two thousand five hundred dollars, if such development does not materially interfere with the normal public use of the water or shorelines of the state;
- B. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements;
- C. Construction of the normal protective bulkhead common to single-family residences;
- D. Emergency construction necessary to protect property from damage by the elements;
- E. Construction and practices normal or necessary for farming, irrigation, and ranching activities;
- F. Construction or modification of navigational aids such as channel markers and anchor buoys;
- G. Construction on wetlands by an owner, lessee or contract purchaser of a single-family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and meets all requirements of the state agency or local government having jurisdiction;

- H. Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owners, lessee, or contract purchaser of a single-family residence, for which the cost or fair market value, whichever is higher, does not exceed two thousand five hundred dollars;
- I. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of a system of waters, including return flow and artificially stored ground water from the irrigation of lands;
- J. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
- K. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on the effective date of the 1975 amendatory act which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system; and
- L. Any project with a certification from the governor pursuant to chapter 80.50 RCW.

Before determining that a proposal is exempt, the Administrator may conduct a site inspection to ensure that the proposal meets the exemption criteria. The exemption granted may be conditioned to ensure that the activity is consistent with the Master Program and the Shoreline Management Act.

**Note: EXEMPTION FROM SUBSTANTIAL DEVELOPMENT PERMIT REQUIREMENTS DOES NOT CONSTITUTE EXEMPTION FROM THE POLICIES AND USE REGULATIONS OF THE SHORELINE MANAGEMENT ACT; THE PROVISIONS OF THIS MASTER PROGRAM; AND OTHER APPLICABLE CITY, STATE, OR FEDERAL PERMIT REQUIREMENTS.**

#### Statement of Exemption

Applicants for all non-shoreline permits or approvals within the shoreline area must obtain a written "Statement of Exemption" from securing a Substantial Development Permit. This process verifies that the action is exempt and offers an applicant an itemization of SMP and other requirements applicable to the proposed project. In the case of development subject to the policies and regulations of this Master Program but exempt from the Substantial Development Permit process, the Building Official or other permit authorizing official shall attach shoreline management terms and conditions to the building permits and other permits and approval pursuant to RCW 90.58.140. For example, the approval of a building permit for a single-family residence can be conditioned with provisions from the Master Plan. Other permit approvals may be conditioned on the basis of the SMP policy and use regulations as well.

In the granting of all exempt permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if exemptions were granted to other developments in the area where similar circumstances exist, the total of the exemptions should also remain consistent with the policies of RCW 90.58 and should not produce substantial adverse effects to the shoreline environment.

### **3.06 Fees**

- A. Filing fee in an amount established by the City Council shall be paid to the City of Montezano at the time of the application.

### **3.07 Permit Application**

The Administrator shall provide the necessary application forms for shoreline Substantial Development, Conditional Use and Variance Permits. In addition to the information requested on the application, the applicant shall provide, at a minimum, the following information:

- A. Site Plan - drawn to scale and including:
  - 1. Site boundary;
  - 2. Property dimensions in vicinity of project;
  - 3. Ordinary high water mark;
  - 4. Typical cross section or sections showing:
    - a. existing ground elevation
    - b. proposed ground elevation
    - c. height of existing structures
    - d. height of proposed structures
  - 5. Where appropriate, proposed land contours using five-foot intervals in water area and ten-foot intervals on areas landward of ordinary high water mark, if development involves grading cutting, filling, or other alteration of land contours;
  - 6. Show dimensions and location of existing structures which will be maintained;
  - 7. Show dimensions and locations of proposed structures; parking and landscaping;
  - 8. Identify source, composition, and volume of fill material;
  - 9. Identify composition and volume of any extracted materials, and identify proposed disposal area;
  - 10. Location of proposed utilities, such as sewer, septic tanks and drain fields, water, gas, and electricity.
  - 11. If the development proposes septic tanks, does proposed development comply with local and state health regulations?
  - 12. Shoreline designation according to the Master Program;
  - 13. Show which areas are shorelines and which are shorelines of statewide significance.

14. If the development involves state-owned aquatic lands, include a Department of Natural Resources - Division of Aquatic Lands Lease Application number.

B. Vicinity Map:

1. Indicate site location using natural points of reference (roads, state highways, prominent landmarks, etc.).
2. If the development involves the removal of any soils by dredging or otherwise, identify the proposed disposal site on the map. If the disposal site is beyond the confines of the vicinity map, provide another vicinity map showing the precise location of the disposal site within the City and/or its distance to nearest city or town.

C. Adjacent Land Owners:

1. Provide names and addresses of all real property owners within 300 feet of property where development is proposed.

Completed application and documents for all shoreline permits shall be submitted to the Administrator for processing and review. Any deficiencies in the application or documents shall be corrected by the applicant prior to further processing.

### **3.08 Permit Process**

Within ten (10) days from receiving a complete application and associated information, the Administrator shall mail notice of the proposed project to all real property owners named on the list as supplied by the applicant, and shall post notice or require the applicant to post notice (minimum of 8" x 10" in size) in a conspicuous manner on the property upon which the project is to be constructed. The Administrator shall also be responsible for delivering the legal notice, containing the information required by WAC 173-14-070, to the newspaper, to be published at least once a week on the same day of the week for two consecutive weeks in a newspaper of general circulation within the area in which the development is proposed. Advertising costs will be the responsibility of the applicant. Further, the burden of proving that a proposed development is consistent with the approval criteria and master program policies and regulations shall be the applicants.

The Administrator shall schedule a public hearing before the Hearings Board in the case of a Conditional Use Permit or Variance Permit. No public hearing is required for shoreline Substantial Development permits acted upon by the Administrator. For the purpose of scheduling a public hearing, the date of submittal of a complete application shall be considered the date of applications. The minimum allowable time required from the date of application to the Hearing Board's hearing date shall be 45 days. Any interested person may submit his/her written views upon the application to the City within 30 days of application or notify the City of his/her desire to receive a copy of the action taken upon the application. All persons who so submit their views shall be notified in a timely manner of the action taken upon the applications.

A. Application Review - Administrator Action:

The Administrator shall make recommendations in the case of Variance and Conditional Use Permits and decisions in the case of Substantial Development permits, or requests for revisions

to approved permits pursuant to Section 3.09, based upon:

1. The policies and procedures of the Act, and related WAC's, as amended.
2. The Shoreline Master Program for the City of Montesano, as amended.
3. Other applicable land use regulations.

B. Hearing Board Review:

1. At least one public hearing shall be held by the Hearing Board regarding applications for permits where:
  - a. The proposal involves a Variance;
  - b. The proposal involves a Conditional Use;
  - c. The proposal involves an appeal of the Administrator decision on a Substantial Development Permit or Exemption; and
  - d. The Administration or the City Council determines that the proposed development is one of public significance and/or would have a significant impact upon the shoreline environment.
2. The Hearing Board shall review applications for Conditional Use Permits, Variances and appeals of Substantial Development Permits and Exemption decisions based upon any or all of the following:
  - a. The application.
  - b. Applicable SEPA documents, Shoreline Management Act regulations, Shoreline Master Program provisions and local land use regulations.
  - c. Evidence presented at the public hearing.
  - d. Written and oral comments from interested persons.
  - e. The findings, conclusions, recommendation or decision of the Administrator.
3. A written notice of the public hearing at which the Hearing Board considers the application, shall be mailed or delivered to the applicant a minimum of five days prior to hearing.
4. The decisions of the Hearing Board shall be the final decision of the City of Montesano on all applications, unless appealed, and the Hearing Board shall render a written decision including finding, conclusions, and a final order, and transmit copies of the decision within five days of the Council's Hearing Board's final decision to the following:
  - a. The applicant;
  - b. The Department of Ecology;
  - c. Attorney General;
  - d. Appellant's;
  - e. Interested parties.

C. Washington State DOE Review:

Development pursuant to a shoreline permit shall not begin and is not authorized until 30 days from the date the Administrator files the approved permit with the Department of Ecology and the Attorney General, in the case of a Substantial Development Permit, or up to 60 days in the case of Variance or Conditional Use Permit PROVIDED all review and appeal proceedings initiated within 30 days of the date of such filing of a Substantial Development Permit or 30 days of final approval by the Washington State Department of Ecology for a Conditional Use Permit or Variance have been terminated. All shoreline permits acted upon locally, including those denied, shall be filed with the Department of Ecology.

D. Duration of Permits:

The City of Montesano may issue permits with termination dates of up to five years. If a permit does not specify a termination date, the following requirements apply, consistent with WAC 173-14-060:

1. Time Limit for Substantial Progress: Construction, or substantial progress toward completion, must begin within two years after approval of the permits.
2. Extension for Substantial Progress: The City of Montesano may at its discretion, with prior notice to parties of record and the Department, extend the two-year time period for the substantial progress for reasonable time up to one year based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.
3. Five-Year Permit Authorization: If construction has not been completed within five years of approval by the City, the City will review the permit and, upon showing of good cause, will either extend the permit for one year, or terminate the permit. Prior to the City authorizing any permit extensions, it shall notify any parties of record or the Department. Note: Only one single extension is permitted.

### **3.09 Revision of Permits**

When an applicant desires to revise a permit, the applicant must submit detailed plans and text describing the proposed changes. If the Administrator determines that the revisions proposed are within the scope and intent of the original permit, consistent with WAC 173-14-064, the Administrator may approve the revision. "Within the scope and intent of the original permit" means all of the following:

- A. No additional over-water construction is involved, except that pier, dock or float construction may be increased by five hundred (500) square feet or ten percent (10%), whichever is less;
- B. Ground area coverage and height is not increased more than ten percent (10%);
- C. Additional structures do not exceed a total of two hundred fifty (250) square feet;
- D. The revision does not authorize development to exceed height, setback, lot coverage, or any other requirement of the City of Montesano Shoreline Master Program;

- E. Additional landscaping is consistent with conditions (if any) attached to the original permit;
- F. The use authorized pursuant to the original permit is not changed; and
- G. No substantial adverse environmental impact will be caused by the project revision.

If the sum of the proposed revision and any previously approved revisions do not meet the criteria above, an application for a new shoreline permit must be submitted. If the revision involves a Conditional Use or Variance which was conditioned by the Department of Ecology, the revision also must be reviewed and approved by the Department of Ecology (see WAC 173-14-064).

A City or Department decision on revision to the permit may be appealed within thirty (30) days of such decision, in accordance with RCW 90.58.180 and WAC 173-14-064.

Construction allowed by the revised permit that is not authorized under the original permit is undertaken at the applicant's own risk until the expiration of the appeals deadline.

### **3.10 Local Appeals**

Any decision made by the Administrator on a substantial development permit, master program policy or regulation interpretation, permit revision, or other action within the responsibility of the Administrator, may be appealed by the applicant, private or public organization, or individual to the Hearing Board within ten calendar days following the issuance of a written decision by the Administrator. Such appeals shall be initiated by filing with the City Clerk, a notice of appeal setting forth the action being appealed and the principal points upon which the appeal is based, together with a filing fee as prescribed by the City Council.

### **3.11 Appeal to State Shoreline Hearings Board**

Any person aggrieved by the granting, denying, rescission or modification of a Shoreline Permit may seek review from the State Shorelines Hearings Board by filing an original and one copy of request for the same with the State Hearings Board within 30 days of receipt of the final decision by the City Hearing Board. Said request shall be in the form required by the rules for practice and procedure before the State Hearings Board, the person seeking review shall file a copy of the request for review with the State Department of Ecology and the Attorney General. State Hearing Board regulations are contained in Chapter 461-08 WAC.

### **3.12 Variances and Conditional Uses Permits**

The Shoreline Management Act states that Master Programs shall contain provisions covering conditional uses and variances. These provisions should be applied in a manner which, while protecting the environment, will assure that a person will be able to use his/her property in a fair and equitable manner.

#### **A. Variances:**

The purpose of a Variance Permit is strictly limited to granting relief to specific bulk dimensional, or performance standards set forth in the Master Program, and where there are

extraordinary or unique circumstances relating to the property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the Shoreline Management Act 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.

1. **Application:** An application for a Shoreline Variance shall be submitted on a form provided by the City accompanied by maps, completed environmental checklist, applicable fees, and any other information specified in this Master Program or requested by the Administrator.
2. **Criteria for Granting Variances:** Variance Permits for development that will be located landward of the ordinary high water mark, except those areas designated by DOE as marshes, bogs, or swamps pursuant to WAC 173-22, may be authorized provided the applicant can demonstrate all of the following:
  - a. That the strict requirements of the bulk, dimensional, or performance standards set forth in the Master Program precludes or significantly interferes with a reasonable use of property not otherwise prohibited by the Master Program.
  - b. That the hardship described above is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program, and not, for example, from deed restrictions or the applicant's own actions.
  - c. That the design of the project will be compatible with other permitted activities in the area and will not cause adverse effects to adjacent properties or the shoreline environment.
  - d. That the Variance authorized does not constitute a grant of special privilege not enjoyed by the other properties in the area, and will be the minimum necessary to afford relief.
  - e. That the public interest will suffer no substantial detrimental effect.
3. **Variance Permits for development that will be located either waterward of the ordinary high water mark or within marshes, bogs, or swamps as designated in WAC 172-22, may be authorized provided the applicant can demonstrate all the criteria stated above as well as the following:**
  - a. That the public rights of navigation and use of the shorelines will not be adversely affected by granting the Variance;
  - b. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes a reasonable use of the property not otherwise prohibited by the master program.

In the granting of all Variance Permits, consideration shall be given to the cumulative impact of additional

request for like actions in the area. For example, if Variances were granted to other developments in the area where similar circumstances exist, the total of the Variances should also remain consistent with the policies of RCW 90.58 and should not produce substantial adverse effects to the shoreline environment.

Requests for varying the use to which a shoreline area is to be used are not requests for Variances but should be considered as conditional use permits.

#### B. Conditional Uses:

The purpose for a Conditional Use Permit is to allow greater flexibility in varying the application of the use regulations of the master program in a manner consistent with the policies of RCW 90.58.020; provided, that Conditional Use Permits should also be granted in a circumstance where denial of the permit would result in a thwarting of State policy enumerated in RCW 90.58.020. In authorizing a Conditional Use, special conditions may be attached to the permit by the City of Montesano or the Department of Ecology to prevent undesirable effects of the proposed use. **USES WHICH ARE SPECIFICALLY PROHIBITED BY THE MASTER PROGRAM SHALL NOT BE AUTHORIZED WITH THE APPROVAL OF A CONDITIONAL USE PERMIT.**

Uses classified as conditional uses may be authorized provided that the applicant can demonstrate all of the following:

1. That the proposed use will be consistent with the policies of RCW 90.58.020 and the policies of the Master Program.
2. That the proposed use will not interfere with the normal and/or existing public use of public shorelines.
3. That the proposed use of the site and design of the project will be compatible with other permitted uses within the area.
4. That the proposed use will cause no unreasonably adverse effects to the shoreline environment designation in which it is to be located.
5. That the public interest suffers no substantial detrimental effect.

### **3.13 Unclassified Uses**

Uses not specifically listed and non-synonymous with or substantially or materially the same as listed, shall be prohibited unless the City Hearing Board finds, by formal written findings of fact, by clear, cogent and convincing evidence that such use is consistent with the goals and policies and the management principles and guidelines of this Master Program and the Shoreline Management Act and with the shoreline environmental designation criteria of the particular shoreline environment in which the proposal is to be located.

### **3.14 DOE Approval of Conditional Uses and Variance Permits**

After the City of Montesano's Hearing Board approval of a Conditional Use of Variance Permit, the

Administrator shall submit the permit to the Department of Ecology for its approval, approval with conditions, or denial. Upon receipt of the DOE decision, the Administrator shall notify those interested persons having requested notification of the such decision. Permits denied by the Hearing Board shall be filed with the Department of Ecology.

### **3.15 Nonconforming Development**

Nonconforming development is a shoreline use or structure which was lawfully constructed or established prior to the effective date of the act or the Master Program, or amendments thereto, but which does not conform to present regulations or standards of the Master Program or policies of the act. In such cases, the following standards shall apply.

- A. Nonconforming development may be continued provided that it is not enlarged, intensified, increased, or altered in any way which increases its nonconformity.
- B. A nonconforming development which is moved any distance must be brought into conformance with the Master Program and the Act.
- C. If a nonconforming development is damaged to an extent not exceeding fifty (50) percent replacement cost of the original structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, so long as restoration is completed within one year of the date of damage.
- D. If a nonconforming use is discontinued for twelve (12) consecutive months or for twelve (12) months during any two-year period, any subsequent use shall be conforming; it shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire.
- E. A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed.
- F. An undeveloped lot, tract, parcel, site, or division which was established prior to the effective date of the act and the Master Program but which does not conform to the present lot size or density standards may be developed so long as such development conforms to all other requirements of the Master Program and the Act.

### **3.16 Enforcement and Penalties**

The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, benefits that accrue to the violator, and the cost of obtaining compliance may also be considered.

- A. Civil Penalty:
  - 1. Action: The City Attorney, when authorized by the Mayor, shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the shorelines of the state in conflict with the provisions of the Act and the Master Program

and to otherwise enforce the provisions of the Act and the Master Program.

2. **Non-Compliance:** Any person who fails to conform to the terms of a permit issued under this Master Program or who undertakes a development or use on the shorelines of the state without first obtaining any permit required under the Master Program or who fails to comply with a cease and desist order issued under regulations shall also be subject to a civil penalty not to exceed one thousand (1000) dollars for each violation. Each permit violation or each day of continued development without a required permit shall constitute a separate violation.
  3. **Aiding and Abetting:** Any person who, through an act of commission or omission, aids, or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.
  4. **Notice of Penalty:** The penalty provided for in this section shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the City of Montesano, D.O.E. or both. The notice shall include the "content of order" specified in subsection f. Regulatory Order.
  5. **Remission and Joint Order:** Within thirty (30) days after the notice is received, the person incurring the penalty may apply in writing to the Hearing Board of the City of Montesano for remission or mitigation of such penalty. Upon receipt of the application, the Hearing Board may remit or mitigate the penalty only upon a demonstration of extraordinary circumstances, such as the presence of information or factors not considered in setting the original penalty. Any penalty imposed pursuant to this section by the City shall be subject to review by the Hearing Board. In accordance with RCW 90.58.050 and RCW 90.58.210 (4), any penalty jointly imposed by the City and the Department of Ecology shall be appealed to the State Shorelines Hearings Board. When a penalty is imposed jointly by the City and the Department of Ecology, it may be remitted or mitigated only upon such terms as both the City and the Department agree.
  6. **Regulatory Order:** Content of order shall set forth and contain:
    - a. A description of the specific nature, location, extent, and time of violation and the damage or potential damage including applicable Shoreline Management Act or Master Program language; and
    - b. 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 under this section may be issued with the order and same shall specify a date certain or schedule by which payment will be complete.
  7. **Effective Date:** The cease and desist order issued under this subsection shall become effective immediately upon receipt by the person to whom the order is directed.
  8. **Compliance:** Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.
- B. **Delinquent Permit Penalty:** Permittees applying for a permit after commencement of a use or activity may, at the discretion of the City be required, in addition, to pay a delinquent permit

penalty not to exceed three times the appropriate permit fee paid by the permittee. A person who has caused, aided, or abetted a violation within two (2) years after the issuance of a regulatory order, notice of violation, or penalty by the City or the Department against said person may be subject to a delinquent permit penalty not to exceed ten times the appropriate permit fee paid by the permittee. Delinquent permit penalties shall be paid in full prior to resuming the use or activity.

- C. **Property Lien:** Any person who fails to pay the prescribed penalty as authorized in this section shall be subject to a lien upon the affected property until such time as the penalty is paid in full. The City Attorney shall record said lien with the Grays Harbor County Auditor.
- D. **Mandatory Civil Penalties:** Issuance of civil penalties is mandatory in the following instances:
  - 1. The violator has ignored the issuance of an order or notice of violation.
  - 2. The violation causes or contributes to significant environmental damage to shorelines of the state as determined by the City.
  - 3. A person causes, aids, or abets in a violation within two (2) years after issuance of a similar regulatory order, notice of violation, or penalty by the City or the Department against said person.
- E. **Minimum Penalty Levels:**
  - 1. Regarding all violations that are mandatory penalties, the minimum penalty is two hundred and fifty (250) dollars.
  - 2. For all other penalties, the minimum penalty is one hundred (100) dollars.
- F. **General Criminal Penalty:** In addition to incurring civil liability under Section 3.16 A., any person found to have willfully engaged in activities on the shorelines of the state in violation of the provisions of the Act or the Master Program shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than one hundred (100) dollars nor more than one thousand (1000) dollars or by imprisonment in the county jail for not more than ninety (90) days for each separate offense, or by both such fine and imprisonment. Provided, that the fine for each separate offense for the third and all subsequent violations in any five-year period shall not be less than five hundred (500) dollars nor more than ten thousand (10,000) dollars.
- G. **Violator Liabilities - Damages, Attorney's Fees/Costs:** Any person subject to the regulatory program of the Act or the Master Program who violates any provision thereof or permit issued pursuant thereto shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to violation. The City Attorney shall bring suit for damages under this section on behalf of the City. Private persons shall have the right to bring suit for damages under this section on their own behalf and on the behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by a violation, the court shall make provisions to assure that restoration will be accomplished within reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

- H. **Development and Building Permits:** No building permit, septic tank permit, or other development permit shall be issued for any parcel of land developed or divided in violation of the Master Program. All purchasers or transferees of property shall comply with provisions of the Act and the Master Program, and each purchaser or transferee may recover his damages from any person, firm, corporation, or agent selling, transferring, or leasing land in violation of the Act or the Master Program, including any amount reasonably spent as a result of inability to obtain any development permit and spent to conform to the requirements of the Act or the Master Program as well as cost of investigation, suit, and reasonable attorney's fees occasioned thereby. Such purchaser, transferee, or lessor may, as an alternative to conforming his property to these requirements, rescind the sale, transfer, or lease and recover cost of investigation and reasonable attorney's fees occasioned thereby from the violator.

### **3.17 Master Program Review**

This Master Program shall be periodically reviewed and adjustments shall be made as are necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-19 requirements and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

### **3.18 Amendments to Master Program**

Any of the provisions of this Master Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173-19 WAC. Amendments or revisions to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.

Proposals for shoreline environment redesignating must demonstrate consistency with the criteria set forth in Shoreline Environment Designation Criteria (WAC 173-16-040(4)).

### **3.19 Severability**

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

## **Chapter 4.00 Shoreline Elements and Goals**

Seven Shoreline Management goal statements relating to program elements specified in RCW 90.58.100 have been identified for the City of Montesano. These goal statements address the following: Circulation; Conservation; Economic Development; Historical, Cultural, Scientific, and Educational contributions; Public Access; Recreation; and Shoreline Use. These goals establish the basis from which the environmental designations, policies, regulations, and administrative procedures were developed.

### **4.01 Circulation Goal**

Provide safe, reasonable and adequate circulation systems to shorelines where routes will have the least possible adverse effect on unique shoreline features and existing ecological systems.

### **4.02 Conservation Goal**

Insure that utilization of a resource takes place with the minimum adverse impact to natural systems. Preserve the scenic aesthetic quality of shoreline areas and vistas to the greatest extent possible.

### **4.03 Economic Development Goal**

Protect current economic activity that is consistent with the objectives of the Shoreline Master Program and encourage new environmentally sensitive development.

Encourage new economic development to locate in areas already developed with similar uses which are consistent with this master program.

### **4.04 Historical, Cultural, Scientific and Educational Goal**

Protect, preserve and restore important archaeological, historical and cultural sites for educational, scientific contributions and enjoyment of the general public.

### **4.05 Public Access Goal**

To increase and enhance public access to publicly owned shoreline areas consistent with private rights, public safety, and the natural shoreline character.

### **4.06 Recreation Goal**

To encourage the development of diverse, convenient water-related and/or water-dependent recreation opportunities without destroying the integrity and character of the shoreline.

#### **4.07 Shoreline Use Goal**

To preserve and/or develop shoreline areas in a manner that assures a balance of shoreline development that retains or improves the quality of the environment as it is designated for that area.

Provide guidance on types of activity allowed in the Shoreline areas.

## **Chapter 5.00 Shoreline of State-Wide Significance**

The Shoreline Management Act of 1971 designated certain shoreline areas as shorelines of state-wide significance. In RCW 90.58.030, the Washington State legislature designated the following shorelines of the City of Montesano as having state-wide significance (i.e. a mean annual flow of 1000 cubic feet per second or greater):

- A. Those portions of the Chehalis River and its associated wetlands situated within the city limits of Montesano;
- B. Those portions of the Wynoochee River and its associated wetlands situated within the city limits of Montesano.

The Act requires that the Montesano Shorelines Master Program give preference to uses which generally are consistent with the state-wide public interest in shorelines designated as having statewide significance.

When considering the appropriateness of development on shorelines of statewide significance, local government shall give preference to uses which meet the following policies:

### **5.01 Recognize and protect the state-wide interest over local interest.**

- A. Development Guidelines:
  - 1. Solicit comments and opinions from groups and individuals representing state-wide or regional interests on this program and on specific applications.
  - 2. Recognize and take into account state agencies' policies, programs and recommendations in developing and administering use regulations and in approving shoreline permits.
  - 3. Solicit comments and advice from individuals or groups with expertise in scientific, social science, and design disciplines applicable to shoreline management, including biology, geology, engineering, geography, economics, law, oceanography, aquaculture and forestry.

### **5.02 The natural character of shorelines of state-wide significance should be preserved.**

- A. Development Guidelines:
  - 1. Designate and administer shoreline environments and use regulations to minimize man-made intrusion on the shorelines.
  - 2. Where intensive development already occurs, carry out policies and regulations which allow continued or increased use consistent with this program. Encourage prevention or reduction of adverse impacts on the shorelines through re-development to the standards of this program or preservation of shoreline for uses unique to or dependent on the shoreline.

**5.03 Emphasize the use of shorelines of state-wide significance for long-term over short-term benefits.**

A. Development Guidelines:

1. Severely limit activities which will detrimentally alter natural conditions.
2. Weigh potential short-term economic gain against the long-term and/or costly impairments on the shoreline environment.

**5.04 Protect resources and ecological systems of shorelines of state-wide significance.**

A. Development Guidelines:

1. Using the shoreline environment designation, policies, and regulations, conserve valuable shoreline resources and processes, including aesthetic values, to the maximum extent possible.
2. Areas containing unique, scarce or fragile natural resources should be left free of development.
3. Activities which increase erosion potential, such as excavation, should be severely limited.

**5.05 Increase public access to publicly owned areas of the shoreline.**

A. Development Guidelines:

1. Public and private developments should give priority to the development of paths and trails to shoreline areas and linear access along the shorelines whenever possible.
2. Development not requiring a shoreline location should be set back from the ordinary high water mark so that public access to the shoreline areas is enhanced.
3. Public access should not occur at the detriment of natural resources.

**5.06 Increase the recreational opportunities for the public in the shorelines areas.**

A. Development Guidelines:

1. Encourage public and private development along the shorelines that provide appropriate public facilities for shore related outdoor recreation and avoid degradation of the resources.
2. Lodging and related facilities should be located upland, with appropriate means of access provided to adjacent shoreline areas.

## **Chapter 6.00 Shoreline Environment Designation Criteria & Policies**

The following provisions address the four shoreline environment designations applied to Montesano's shorelines. Each section begins with a statement of purpose for the subject environment, followed by a list of designation criteria used to apply the environment designation on the shorelines of Montesano, and a series of management policies relating to shoreline use and development appropriate in the given environment. These management policies have been used as the basis for determining which uses and activities are permitted in each shoreline environment.

### **6.01 Urban Shoreline Environment**

**A. Purpose:**

An area of high intensity land use including residential, commercial and industrial development. This environment is to ensure optimum utilization of shorelines which are presently urbanized.

**B. Designation Criteria:**

Shoreline used or designated for high intensity commercial, industrial or recreational use or for multi-family residential development and should not have biophysical limitations to development such as floodplains, steep slopes, slide hazard areas and/or marshes, bogs or swamps.

**C. Management Policies:**

Full utilization of existing urban areas should be achieved before further expansion of commercial and industrial development are allowed in other shoreline environments.

### **6.02 Rural Shoreline Environment**

**A. Purpose:**

An area intended to protect agricultural land from urban expansion, restrict intensive development along undeveloped shorelines, and function as a buffer between urban areas, and maintain open spaces and opportunities for recreational uses compatible with agricultural and forestry uses.

**B. Designation Criteria:**

Areas to be designated rural should meet one or more of the following criteria.

1. Areas dominated by agriculture, forestry, or low intensity recreational uses.
2. Areas where residential development is or should be low density because of biological or physical limitations, utility capabilities, access problems and/or potential incompatibility with other uses.

C. Management Policies:

1. Public and private recreational facilities and uses which are compatible with agriculture and forestry should be encouraged.
2. Sand, gravel and mineral extracting should be allowed in suitable areas not designated as prime agriculture land.
3. Medium and high density residential, industrial and commercial uses (except agriculture, forestry and mining) should be prohibited.
4. Low density residential development should be permitted.

**6.03 Conservancy Environment**

A. Purpose:

An area to protect, conserve and manage existing natural resources and valuable historic and cultural areas in order to achieve sustained resource utilization and provide recreational opportunities as well as protecting environmentally sensitive areas which are not suitable for intensive use, such as steep slopes, flood prone areas, eroding bluffs, wetlands, and areas which cannot provide adequate sewage disposal.

B. Designation Criteria:

Areas to be designated Conservancy should meet one or more of the following criteria:

1. Areas containing natural resources which lend themselves to management on a sustained-yield basis, such as commercial forest land and agricultural land;
2. Areas subject to the severe biophysical limitations such as:
  - a. steep slopes and landslide hazard areas;
  - b. areas subject to severe erosion and feeder bluffs;
  - c. unstable banks or bluffs;
  - d. flood prone areas; and
3. Areas with soils that have poor drainage.
4. Areas which play an important part in maintaining the regional ecological balance such as:
  - a. areas rich in quality and quantity of life forms;
  - b. areas important to the maintenance of natural water quality and flow; and

- c. areas important to maintaining the food chain process.
- 5. Areas free from extensive development;
- 6. Areas where intensive development or use would interfere with natural processes and result in significant damage to other resources;
- 7. Areas of high scenic or recreational value;
- 8. Areas with extensive or unique historic or cultural resources.

C. Management Policies:

- 1. New development should be restricted to that which is compatible with the natural and biological limitations of the land and water and will not require extensive alteration of the land/water interface.
- 2. Aquacultural, agriculture, and recreational activities which will not be detrimental to the shoreline character and scenic quality should be encouraged.
- 3. Residential development should be severely restricted to protect the environmental system.
- 4. Commercial and industrial uses other than low intensity agricultural practices, commercial forestry and extraction of renewable sand, gravel and mineral resources should be prohibited.
- 5. Preservation of resources should have priority over public access recreation and development objectives whenever conflicts exists.
- 6. Preferred uses are non-consumptive of the physical and biological resource and are non-permanent in nature.

**6.04 Natural Environment**

A. Purpose:

The Natural Environment is intended to preserve and restore those resource systems existing relatively free of human influence and those shoreline areas possessing natural characteristics intolerant of human use or unique historical, cultural or educational features. These systems require severe restrictions on the intensities and types of uses permitted so as to maintain the integrity of the shoreline environment.

B. Designation Criteria:

Areas to be designated natural should meet one or more of the following criteria:

- 1. Wildlife Habitats:



- a. A shoreline area that provides food, water or cover and protection for a rare, endangered or diminishing species, or for significant populations of flora or fauna during critical stages of their life cycle; and;
  - b. A seasonal haven for concentrations of native animals, fish or fowl, such as a migration route, breeding site, larval rearing grounds, or spawning site.
2. Areas of Scientific and Educational Value:
    - a. Areas considered to best represent basic ecosystems and geologic types that are of particular scientific and educational interest;
    - b. Shoreline areas which best represent undisturbed natural areas; and
    - c. Shoreline areas with established histories of scientific research.
  3. Areas of Scenic or Recreational Value:
    - a. Those shoreline areas having an outstanding or unique scenic feature in their natural state;
    - b. Shoreline areas having a high value for wilderness experience; and
    - c. Areas having a high value in their natural states for low intensity recreational use.
- C. Other Criteria:
1. Areas where human influence and development are minimal;
  2. Other unique natural features relatively intolerant of human use or development such as: saltwater marshes, spits, virgin timber stands and wilderness areas.
- D. Management Policies:
1. Any use or development which would potentially degrade the natural value or significantly alter the natural character of the shoreline area should be severely restricted or prohibited.
  2. Limited access should be permitted for scientific, historical, educational and low intensity recreational purposes, provided that no significant, adverse impact on the area will result.
  3. Uses which are consumptive of physical, visual and biological resources should be prohibited.
  4. Physical alterations should only be considered when they serve to protect a significant, unique or highly valued feature which might otherwise be degraded or destroyed.
  5. Uses and activities permitted in locations adjacent to shorelines designated Natural should be compatible and should ensure that the integrity of the Natural Environment will not be compromised.

## **Chapter 7.00 General Policies and Regulations**

Based upon the goals established in this Master Program the following general policies and regulations apply to all shoreline uses and activities in the City of Montesano.

### **7.01 Archaeological and Historic Resources**

Archaeological and historic resources, because of their finite nature, are valuable links to our past and should be considered whenever a development is proposed along the state's shorelines. Where such resources are either recorded at the State Historic Preservation Office and/or with local jurisdictions, or have been inadvertently uncovered, the following policies and regulations apply.

#### **A. Policies:**

1. Due to the limited and irreplaceable nature of the resource, public or private uses and activities should be prevented from destroying or destructively altering any site having historic, cultural, scientific or educational value as identified by the appropriate authorities.

#### **B. Regulations:**

1. All shoreline permits shall contain provisions which require developers to immediately stop work and notify the city if any phenomena of possible archaeological interest is uncovered during excavations. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data is properly salvaged.
2. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The city shall notify the State Department of Ecology, the State Attorney General's Office and the State Historic Preservation Office of such a waiver in a timely manner.

### **7.02 Clearing and Grading**

Clearing and grading is the activity associated with developing property for a particular use including commercial, industrial, recreational, and residential. Specifically, "clearing" means the destruction or removal of vegetative ground cover and/or trees including, but not limited to, root material removal and/or topsoil removal. "Grading" means the physical manipulation of the earth's surface and/or surface drainage pattern. This includes excavation, filling, and re-contouring the ground.

Both activities may cause erosion, siltation, increase runoff and flood volumes, reduce flood storage capacity, and damage habitat.

#### **A. Policies:**

1. All clearing and grading activities should be designed and conducted so as to minimize the degradation of water quality and the sedimentation of creeks, streams, ponds, lakes,

wetlands and other water bodies, and impacts to wildlife habitat.

2. Clearing and grading activities in shoreline areas should be limited to the minimum necessary to accommodate shoreline development. Such activities should be discouraged in designated (structural) setback areas and allowed in other shoreline locations only when associated with a permitted shoreline development.
3. Cleared and disturbed sites remaining after completion of construction should be promptly replanted with native vegetation or in limited circumstances with other species contained in the city approved plant lists.

**B. Regulations:**

1. All clearing and grading activities shall be limited to the minimum necessary for the intended development, including residential development.
2. Clearing and grading within the required structural setback, along the shoreline, shall not exceed the following maximums:
  - a. Lots, parcels with up to 200' of shoreline frontage: 30' Maximum.
  - b. Lots, parcels with between 201' and 500 shoreline frontage: maximum of 15% of the lot frontage along a shoreline.
  - c. Lots, parcels with over 500' shoreline frontage: maximum of 15% of total lot frontage provided clearing occurs in two or more segments separated by at least 100' of undisturbed areas; where no one segment exceeds 75' in length along the shoreline.
  - d. When applying the above clearing and grading standards the following plant associations shall determine where the clearing and grading occurs:
    - i) Clearing and grading within a grass association is preferred over shrub/scrub and forest associations.
    - ii) Clearing and grading within a grass-shrub/scrub association is preferred over forest association.
    - iii) Clearing and grading within a shrub/scrub-forest association should be minimized.
3. Clearing and grading activities may only be permitted (landward of required setbacks) when associated with a permitted shoreline development, provided that upon completion of construction remaining cleared areas shall be replanted with species contained in a city approved plant list of native species. Replanted areas shall be maintained such that within three years time the vegetation is fully reestablished.
4. Normal non-destructive pruning and trimming of vegetation for maintenance purposes shall not be subject to these clearing and grading regulations. In addition, clearing by hand held equipment of invasive non-native shoreline vegetation or plants listed on the

state Noxious Weed list is permitted in shoreline locations if native vegetation is promptly reestablished in the disturbed areas.

### **7.03 Environmental Impacts**

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

#### **A. Policies:**

1. The adverse impacts of shoreline uses and activities on the environment should be minimized during all phases of development.

#### **B. Regulations**

1. Solid and liquid wastes and untreated effluents shall not be allowed to enter any bodies of water or to be discharged onto the land.
2. The release of oil, chemicals or the hazardous materials onto or into the 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.
3. All shoreline developments and uses shall utilize effective erosion control methods during both project construction and operation.
4. All shoreline uses and activities shall be located, designed, constructed and managed to avoid disturbance of and minimize adverse impacts to fish and wildlife resources, including spawning, nesting, rearing and habitat areas and migratory routes.
5. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures, and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.
6. Herbicides and pesticides shall not be applied or allowed to directly enter water bodies, or wetlands unless approved for such use by appropriate agencies (State Department of Agriculture or Ecology, U.S. Department of Agriculture, EPA).

### **7.04 Environmentally Sensitive Areas**

Environmentally sensitive areas constitute the most fragile lands which support resources that are economically and culturally important to the state under the Shoreline Management Act. They can be resource areas that support fisheries for habitat or areas that may threaten the health and safety of the public.

A. Policies:

1. Unique, fragile, natural and man-made features as well as scenic vistas, and wildlife habitats should be preserved and protected from unnecessary degradation or interference.
2. Shorelines that are identified as hazardous for or sensitive to development should be discouraged from intensive development.

B. Regulations:

1. All shoreline uses and activities shall be located, designed, constructed and managed to protect and/or not adversely affect those natural features which are valuable, fragile or unique in the region, and to facilitate the appropriate human intensity of use of such features, including but not limited to:
  - a. Estuaries and marshes, bogs and swamps;
  - b. Fish, shellfish, wildlife habitats, migratory routes and spawning areas;
  - c. Unstable bluffs; and
  - d. Floodways.
2. All shoreline development shall be designed in accordance with all applicable local and FEMA flood control and management codes and regulations, the State Environmental Policy Act, and other applicable local land use codes.

## **7.05 Wetlands**

Wetland ecosystems serve many important ecological and environmental functions which are beneficial to public welfare such as flood control, erosion control, sediment control, fish and wildlife habitat, recreation, water quality protection, water supply, education and scientific research. Because of the value of these functions to the local community and the region, wetland management regulations are needed at the local level.

A. Policies:

1. Wetland ecosystems should be managed to prevent continued loss and degradation of their functions.
2. A wetland buffer zone of adequate width should be maintained between a wetland and the adjacent development to protect the functions of the wetland.
3. All activities which could potentially affect wetland ecosystems should be controlled within both the wetland and the buffer zone to prevent adverse impacts.
4. In-kind replacement of functional values is preferred. Where in-kind replacement is not feasible or practical due to the characteristics of the existing wetland, substitute resources of equal or greater ecological value should be provided.

5. On-site replacement of wetlands is preferred. Where on-site replacement is not feasible or practical due to characteristics of existing location, replacement should occur within the same watershed and proximity.
6. Activities should be discouraged in wetland buffer zones except where such activities have no adverse impacts on wetland ecosystem functions or when necessary to provide for a reasonable use of the property.

**B. Regulations:**

1. For identifying and delineating a marsh, bog, or swamp, applicants shall use a methodology approved by the Washington State Department of Ecology.
2. Development or activities shall not be authorized in a wetland except where it can be demonstrated that;
  - a. The impact is both unavoidable and necessary;
    - i) In order to demonstrate that impacts are unavoidable and necessary, the applicant must demonstrate that there are no practicable alternatives which would not have other significant adverse environmental consequences.
    - ii) Where non-water dependent activities are proposed, it shall be presumed that adverse impacts are avoidable. This presumption may be rebutted upon a demonstration that, 1) the basic project purpose cannot reasonably be accomplished utilizing one or more other sites in the general region that would avoid, or result in less impact on a wetland ecosystem; and 2) a reduction in the size, scope, configuration, or density of the project as proposed that would avoid, or result in less, adverse impact on an aquatic ecosystem will not accomplish the basic purpose of the project; and 3) in cases where the applicant has rejected alternatives to the project as proposed due to constraints such as zoning, infrastructure, or parcel size, the applicant has made reasonable attempt to remove or accommodate such constraints.
  - b. Unavoidable and necessary impacts are offset through the deliberate restoration, creation, or enhancement of wetlands of equivalent or greater resource value, including acreage and function.
  - c. The restored, created, or enhanced wetland will be as persistent as the wetland it replaces; and
  - d. The applicant demonstrates sufficient scientific expertise, supervisory capability, and financial resources to carry out the proposed replacement activity.
3. Actual replacement acreage will be determined case-by-case, based on the following criteria:
  - a. Projected losses or gains in function value;
  - b. Location of replacement wetlands;

- c. The time required to reestablish lost functions;
  - d. The uncertainty of the probable success of the project;
  - e. The type of compensation; and
  - f. The variety of wetland type being impacted.
4. A wetland buffer zone of 200 feet shall be required adjacent to wetland areas of exceptional resource function. For all other wetland systems, a wetland buffer zone of 100 feet shall be required, except that buffers less than 100 feet but not less than 75 feet may be authorized as a conditional use.

### **7.06 Parking**

The following provisions apply only to parking that is necessary to a permitted shoreline use. Parking as a primary use and parking which serves a use not permitted in the shoreline jurisdiction is prohibited.

#### **A. Policies:**

- 1. Parking in shoreline areas should directly serve a use and be sensitive to the adjacent shorelines and properties
- 2. Parking facilities should be located and designed to minimize adverse impacts including those related to stormwater run-off, water quality, visual qualities, public access, and vegetation and habitat maintenance.
- 3. Parking should be planned to achieve optimum use. Where possible, parking should serve more than one use.
- 4. Parking should be located outside shoreline areas whenever practical.

#### **B. Regulations:**

- 1. Parking as a primary use is prohibited over water and within shoreline jurisdiction.
- 2. Parking facilities shall provide adequate facilities to control surface water runoff from contaminating water bodies, using best available technologies and include a maintenance program that will assure proper functioning of such facilities over time.
- 3. Parking uses are only allowed in the environments indicated in Table 1, Permitted Shoreline Uses (page 65).
- 4. All Parking uses must comply with the setback requirements in Table 2, Development Standards (page 67).

## **7.07 Public Access**

Shoreline public access is the legal physical ability of the general public to reach and touch the water's edge and/or the ability to have an unobstructed view of the water and the shoreline from upland locations. There are a variety of types of public access including picnic areas, pathways and trails (including handicapped), floats, and docks, promenades, viewing towers, bridges, boat launches, street ends, ingress and egress, parking and others.

### **A. Policies:**

1. Public access should be incorporated in all private and public developments. Except where security, safety and protection of the resource are threatened.
2. Development, uses and activities on or near the shoreline should not impair or detract from the public's access to the water.
3. Public access should be provided as close as possible to the water's edge without adversely effecting a sensitive environment and should be designed with provisions for handicapped and physically impaired persons.
4. Publicly-owned shorelines should be limited to water-dependent or public uses, otherwise such shorelines should remain protected open space.
5. Public access afforded by shoreline street ends, public utilities and rights-of-way should be preserved, maintained and enhanced.
6. There should be a physical separation of public and private space in order to avoid unnecessary user conflict.

### **B. Regulations:**

1. The required granting of public access to public lands shall be appropriate in the following cases:
  - a. Projects which would result in the development of an area larger than five acres; and
  - b. Projects which require the granting of a conditional use permit or which require a variance.
2. A shoreline development or use that does not provide public access may be authorized by approval of a shoreline variance permit provided it is demonstrated by the applicant and determined by the city in its findings that one or more of the following provisions apply:
  - a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any practical means;
  - b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;

- c. Unacceptable environmental harm will result from the public access which cannot be mitigated; or
- d. Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated.

Provided further, that the applicant has first demonstrated and the city has determined in its findings that all reasonable alternatives have been exhausted, including but not limited to:

- e. Regulating access by such means as maintaining a gate and/or limiting hours of use;
  - f. Designing separation of uses and activities; and
  - g. Provisions for access at a site geographically separated from the proposal such as a street end, vista or trail system.
3. Development uses and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's physical access to the water and shorelines.
  4. Required public access sites shall be fully developed and available for public use at the time of occupancy of the use or activity.
  5. Public access easements and permit conditions shall be recorded on the deed of title and or on the face of a plat or short plat as a condition running in perpetuity with the land. Said recording with the County Auditor's Office shall occur at the time of permit approval (RCW 58.17.110).
  6. The standard state approved logo or other approved signs that indicate the public's right of access and hours of access shall be constructed, installed and maintained by the applicant in conspicuous locations at public access sites. In accordance with regulation 2(e), signs may control or restrict public access as a condition of permit approval.

### **7.08 Signage**

The following apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on or off premises. The provisions do not apply to publicly owned signs where purpose is safety, direction or information.

#### **A. Policies:**

1. Signs should be designed and placed so that they are compatible with the aesthetic quality for the existing shoreline and adjacent land and water uses.
2. Signs should not block or otherwise interfere with visual access to the water or shorelands.
3. The design of signs should not reduce auto safety or visual aesthetics from adjacent property.

**B. Regulations:**

1. Sign plans and designs shall be submitted for review and approval at the time of shoreline permit approval.
2. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.
3. Over-water signs or signs on floats or pilings shall be related to water-dependent uses only.
4. Lighted signs shall be hooded, shaded, or aimed so that direct light will not result in glare when viewed from surrounding properties or watercourses.
5. Signage uses are only allowed in the environments indicated in Table 1, Permitted Shoreline Uses (page 65).
6. Signage uses must comply with the setback requirements in Table 2, Development Standards (page 67).

**7.09 Utilities (Accessory)**

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

**A. Policies:**

1. Allow only utilities which are necessary to serve shoreline uses. They should be properly installed so as to protect the shoreline and water from contamination and degradation.
2. Utility facilities and rights-of-way should be located outside of the shoreline area to the maximum extent possible. When utility lines require a shoreline location, they should be placed underground.
3. Utility facilities should be designed and located in a manner which preserves, the natural landscape and shoreline ecology and minimizes conflicts with the present and planned land uses.

**B. Regulations:**

1. In shoreline areas, utility transmission lines, pipelines and cable shall be placed underground. Further, such lines shall utilize existing rights-of-way, corridors and/or bridge crossings whenever possible. Proposals for new corridors in shoreline areas involving water crossing must fully substantiate the infeasibility of existing routes.

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

### **7.10 View Protection**

The protection of "scenic vistas" within the shorelines and water bodies is an important objective for shoreline management. The protection of significant views is a form of public access requirements; the access being visual rather than physical. Consideration must be given to protection of the visual quality of the shoreline resource and to maintenance of view corridors to and from waterways and their adjacent shoreland features.

#### **A. Policies:**

1. Development, uses and activities on or near the shoreline should not impair or detract from the public's visual access to the water.
2. Public views from the shoreline and upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excessive removal of vegetation that partially impairs views.
3. Visual access should be maintained, enhanced and preserved on shoreline street-ends, public utilities and rights-of-way.

#### **B. Regulations:**

1. Public lands such as street ends, rights-of-way, and utilities shall provide visual access to the water and shoreline.
2. Development on or over the water shall be constructed as far landward as possible to avoid interference with views from surrounding properties to the shoreline and adjoining waters.
3. Development on the water shall be constructed of non-reflective materials that are compatible in terms of color and texture with the surrounding area.

### **7.11 Water Quality**

Water quality is affected in numerous ways by human occupation and development. Typically the increase in non-porous surfaces as a result of development increases runoff causing higher peak stormwater discharge at a higher velocity which causes scouring and erosion of streambanks. Erosion increases suspended solids along with heavy metals and household wastes into the water, increasing nitrogen and phosphorous enrichment which then depresses levels of dissolved oxygen. The degradation of water quality adversely impacts wildlife habitat along with public health.

A. Policies:

1. All shoreline uses and activities should be located, designed, constructed and maintained to minimize adverse impacts to water quality and fish and wildlife resources including spawning, nesting, rearing, feeding areas and migratory routes.
2. The city should require reasonable setbacks, buffers or storage basins to achieve the objective of lessening negative impacts on water quality.
3. Activities of dredging and filling should be conducted to minimize the effect on water quality through the addition of suspended solids, leaching of contaminants or disturbance of habitats and should be consistent with appropriate agencies.

B. Regulations:

1. All shoreline development shall minimize any increase in surface runoff through control, treatment and release of surface water runoff so that the receiving water quality and shore properties and features are not adversely effected. Control measures include but are not limited to dikes, catch basins or settling ponds, oil interceptor drains, grassy swales, planted buffers, and fugitive dust controls.
2. The city shall require setbacks, buffers, and storage basins for all industrial, commercial, residential, recreational, and agricultural uses.

## **Chapter 8.00 Shoreline Use Activity Policies and Regulations**

As required by the Shoreline Management Act, this master program sets forth categories of uses and activities typically found in shoreline areas and policies and regulations covering the following uses and activities; Agriculture, Aquaculture, Boating Facilities, Commercial, Flood Control Management, Forest Management, Industrial, Mineral Extraction, Recreational, Residential, Transportation Facilities, and Utilities. The policies and regulations, which provide basic criteria for evaluating shoreline permit applications, are used to implement the broader goals, policies and intent of the Shoreline Management Act and this Program.

At the end of this chapter are Tables which summarize the regulations of this Master Program. Table 1 identifies the Permitted Shoreline Uses by Environment Designation; Table 2 identifies Development Standards, specifically, minimum setback requirements; while Table 3 identifies Shoreline Modification Activities by Environment Designation.

### **Policies and Regulations**

#### **8.01 Agriculture**

Agriculture refers to all methods of livestock, crop, vegetation, and soil management. Uses and activities associated with agriculture which are identified as separate use activities in this program, such as Flood Control Management, are subject to the regulations established for those uses in addition to the standards established in this section.

##### **A. Policies:**

1. Valuable agricultural lands should be protected from incompatible and preemptive patterns of development so that they may remain in productive agricultural use.
2. The creation of new agricultural lands by diking, draining or filling marshes, bogs and swamps should be prohibited.
3. A vegetative buffer should be maintained between agricultural lands and water bodies or wetlands in order to reduce harmful bank erosion and resulting sedimentation, enhance water quality by slowing and filtering runoff, and maintain habitat for fish and wildlife.
4. Animal feeding operations, retention and storage ponds, feed lot waste storage and manure storage should be located away from the shoreline and constructed to prevent contamination of water bodies and degradation of the shoreline environment.
5. Appropriate farm management techniques should be utilized to prevent contamination of nearby water bodies and adverse effects on valuable plant, fish and animal life from fertilizer, including animal waste, and pesticide use and application.
6. Dairy, poultry, and feed lot operators should be encouraged to recycle animal wastes, not to include animal remains.
7. Agri-forestry management practices, within the shoreline, should insure the protection and preservation of natural areas or systems identified as having geological, ecological,

biological or cultural significance.

**B. Regulations:**

1. Agricultural development shall conform to applicable state and federal laws and regulations as amended, including but not limited to the following:
  - a. Erosion control guidelines and standards of the Soil Conservation Service and U.S. Department of Agriculture;
  - b. Feedlot control guidelines of the U.S. Environmental Protection Agency (see "Guidelines for Handling Livestock Wastes for Western Washington", distributed by the Washington State Department of Ecology in conjunction with the United States Environmental Protection Agency for the Cooperative Extension Service);
  - c. Washington Pesticide Application Act (Chapter 17.21 RCW);
  - d. Washington Pesticide Act (Chapter 15.57 RCW);
  - e. Intrastate Water Quality Standards(Chapter 372.64);
  - f. Interstate Water Quality Standards(Chapter 372.12);
  - g. State Board of Health Water Supply Rules and Regulations; and
  - h. Cooperative Extension Service Guidelines cited in the SMA WACs for agriculture.
2. Within 100-year flood plain boundaries all liquid manure storage shall be diked and, if feasible, adequately covered. No storage lagoons in floodway, and top of lagoon dikes shall be one foot above 100-year flood elevation.
3. A buffer of natural or planted permanent native vegetation shall be maintained between areas used for crops or intensive grazing and adjacent waters and marshes, bogs and swamps. The plant composition and width of the buffer shall be based on site conditions, including type of vegetation, soils types, drainage patterns and slope, but shall not be less than twenty-five (25') feet measured from the ordinary high water mark. The buffer shall be sufficient to retard surface runoff and reduce siltation and provide adequate riparian habitat. New or redeveloped agricultural sites shall have a map submitted to identify and locate buffer areas.
4. The burning of weed and grass growth along drainage ditches shall be allowed if conducted in accordance with the guidelines and regulations of appropriate agencies.
5. The application of agricultural chemicals shall prevent the direct runoff of chemical-laden waters into water bodies or aquifer recharge areas. Adequate provision shall be made to minimize their entry into any body of water.
6. All agricultural activities and uses must comply with the setback requirements in Table 2, Development Standards (page 67).

7. Agricultural activities and uses are only allowed in the environments indicated on Table 1, Permitted Shoreline Uses (page 65), and Table 3, Shoreline Modification Activities.

C. The following uses are prohibited:

1. The disposal of inorganic farm wastes, chemicals, fertilizers and associated containers and equipment, including junk vehicles and equipment.
2. Disposal of debris and brush.
3. The application of agricultural fertilizers, including animal waste disposal, herbicides, and pesticides shall be prohibited within 100' landward of the OHWM.
4. Aerial spraying of fertilizers, chemical pesticides or herbicides over water bodies, wetland, within a floodway, and within 200 feet landward of the OHWM is prohibited.

## 8.02 Aquaculture

Aquaculture is the farming or culturing of foodfish, or other aquatic plants and animals in lakes, streams, and other natural or artificial water bodies. When consistent with control of pollution and prevention of damage to the environment aquaculture activities are a preferred use of the shoreline.

A. Policies:

1. Areas with high aquacultural use potential should be identified and encouraged for aquacultural use and protected from degradation by other types of land and water uses.
2. Aquaculture activities should be given flexibility to experiment with new aquaculture techniques.
3. Preference should be given to those forms of aquaculture that involve lesser environmental and visual impacts.
4. Experimental aquaculture projects should be limited in scale and should be approved for a limited period of time.
5. Aquaculture activities should not interfere with or prohibit other water dependent activities, or threaten surrounding resource values.

B. Regulations:

1. Applicants shall include in their applications all information needed to conduct thorough evaluations of their aquaculture proposals, including but not limited to the following:
  - a. Species to be reared;
  - b. Aquaculture method(s);
  - c. Anticipated use of any feed, pesticides, herbicides, antibiotics, or other substances,

- and their predicted impacts;
- d. Manpower/employment necessary for the project;
  - e. Harvest and processing location, method and timing;
  - f. Location and plans for any shoreline activities, including loading and unloading of the product, processing;
  - g. Methods of waste disposal and predator control;
  - h. Environmental assessment including best available background information on water quality, tidal variations, prevailing storm wind conditions, current flows, flushing rates, aquatic and benthic organisms, and probable impacts on water quality, currents, lateral drift, and any existing shoreline or water uses.
  - i. Other pertinent information deemed necessary by the city.
2. Aquacultural structures and activities that are not water-dependent (e.g., warehouses for storage of products, parking lots), shall be located inland of the OHWM, upland of water dependent portions of the project, and shall minimize detrimental impacts to the shoreline.
  3. Aquacultural wastes shall be disposed of in a manner that will ensure compliance with all applicable governmental waste disposal standards. No garbage, wastes or debris shall be allowed to accumulate at the site of any aquaculture operation.
  4. Hatchery and other aquaculture operations shall be required to maintain a minimum fifty (50') foot wide vegetated buffer zone along the affected streamway, PROVIDED that clearing of vegetation shall be permitted for essential water access points.
  5. Aquacultural activities and uses are only allowed in the environments indicated in Table 1, Permitted Shoreline Uses (page 65), and Table 3, Shoreline Modification Activities (page 69).
  6. All aquacultural activities and uses must comply with the setback requirements listed in Table 2, Development Standards (page 67).
  7. Operational use of lights and noisy equipment will be conducted to minimize interference to surrounding area or residents.

### **8.03 Boating Facilities**

#### **A. Policies:**

1. Boating facilities should be located, designed and operated to provide maximum feasible protection and enhancement of all forms of aquatic, littoral or terrestrial life including animals, fish, shellfish, birds and plants, their habitats and their migratory routes.

2. Regional as well as local needs should be considered when determining the location of boating facilities, identifying potential ideal sites near high-use or potentially high-use areas.

**B. Regulations:**

1. Boating facility development and/or renovations shall comply with all other applicable state and federal laws and regulations.
2. Marinas and public launch ramps shall locate on stable shorelines where water depths are adequate to eliminate or minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement and other river, lake, harbor and channel maintenance activities.
3. Marinas and launch ramps shall locate in areas where there is adequate water mixing and flushing and shall be designed so as not to retard or negatively influence flushing characteristics.
4. Boat launches and marina entrances shall be located on existing grade, avoiding landfill where feasible, and shall not obstruct access to and along the shoreline.
5. Marinas and launch ramps shall be located where access streets are adequate to handle the traffic load generated by the facility and shall be designed to minimize other circulation and access conflicts. Backing of trailers on public roads shall be prohibited.
6. Launch ramps shall be permitted on accretion shoreforms, provided any necessary grading is not harmful to affected resources and any accessory facilities are located out of the floodway.
7. Where ramps are permitted, parking and shuttle areas shall not be located on scarce accretion shoreforms which have high value for general shoreline recreation.
8. Boating facility activities and uses are only allowed in the environments indicated in Table 1, Permitted Shoreline Uses (page 65), and Table 3, Shoreline Modification Activities (page 69).
9. All boating facility activities and uses must comply with the setback requirements in Table 2, Development Standards (page 67).

**8.04 Commercial Development**

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

**A. Policies:**

1. New commercial development located in shoreline areas should be limited to those which

are water-oriented uses and activities as defined herein. Commercial development in shoreline areas should be encouraged in descending order of preference as follows:

- a. Water-dependent uses;
  - b. Water-related uses;
  - c. Water-enjoyment uses.
2. No commercial development should be allowed in marshes, bogs or swamps.
  3. New commercial development on shorelines should be encouraged to locate in those areas with existing compatible commercial uses and in a manner that will minimize sprawl and the inefficient use of shoreline areas.
  4. Commercial development should be encouraged to utilize existing transportation corridors and minimize the number of ingress/egress points. Ingress/egress should be designed to minimize potential conflicts with regular corridor traffic.
  5. Multiple use concepts which include open space recreation should be encouraged in commercial developments.
  6. The location of commercial developments along shorelines should insure the protection and preservation of natural areas or systems identified as having geological, ecological, biological or cultural significance.

**B. Regulations:**

1. The City shall require and utilize the following information in its review of commercial development proposals:
  - a. Nature of the commercial activity, including a breakdown of specific components;
  - b. Need for shoreline location;
  - c. Special considerations for enhancing the relationship of the activity to the shoreline;
  - d. Provisions for public visual and physical access to the shoreline; and
  - e. Provisions to ensure that the development will not cause adverse negative environmental impacts.
2. Commercial development shall be designed and maintained in a neat, orderly and environmentally compatible manner, consistent with the character and features of the surrounding area.
3. All commercial loading and service areas shall be located on the upland side of the commercial activity or provisions must be made to setback and screen the loading and service area from the shoreline and water body.

4. Commercial activities and uses are only allowed in the environments indicated in Table 1, Permitted Shoreline Uses (page 65), and Table 3, Shoreline Modification Activities (page 69).
5. All commercial activities and uses must comply with the setback requirements in Table 2, Development Standards (page 67).

### **8.05 Flood Control Management**

Flood management projects are those actions taken with the primary purpose of preventing or mitigating damage due to flooding.

#### **A. Policies:**

1. Flood management planning should be undertaken in a coordinated manner among affected property owners and public agencies and should consider the entire system or sizeable stretches of rivers or lakes.
2. Non-structural control solutions are preferred over structural flood control devices, and should be used wherever possible.
3. Flood management works should be located, designed, constructed and maintained to provide:
  - a. Protection of the physical integrity of the shore process corridor and other properties which may be damaged by interruptions or redirection of the geohydraulic system;
  - b. Protection of water quality and natural ground water movement;
  - c. Protection of fish, vegetation and other life forms and their habitat vital to the aquatic food chain; and
  - d. Protection of recreation resources and aesthetic values such as point and channel bars, islands and other shoreline features and scenery.

#### **B. Regulations:**

1. The city shall require and utilize the following information during its review of shoreline flood management projects and programs.
  - a. River channel hydraulics and floodway characteristics upstream and downstream from the project area;
  - b. Existing shoreline stabilization and flood protection works within the area;
  - c. Physical, geological and soil characteristics of the area;
  - d. Biological resources and predicted impact to fish, vegetation and animal habitat

- associated with shoreline ecological systems;
- e. Predicted impact upon area shoreline and hydraulic processes, adjacent properties and shoreline and water uses; and
  - f. Analysis of alternative flood protection measures both structural and non-structural.
  - g. Need for flood protection must be demonstrated.
2. Conditions of Hydraulic Project Approval, issued by Washington State Department of Fisheries, may be incorporated into permits issued for flood protection.
  3. The City shall require professional design of flood protection works where there is reason to suspect such projects may cause interference with normal river geohydraulic processes, leading to erosion of other upstream and downstream shoreline properties, or adverse effects to shoreline resources and uses.
  4. Flood control management activities and uses are only allowed in the environments indicted in Table 1, Permitted Shoreline Uses (page 65), and Table 3, Shoreline Modification Activities (page 69).
  5. All Flood Control Management activities and uses must comply with the setback requirements in Table 2, Development Standards (page 67).

#### **8.06 Forest Management**

There are no commercial forest lands located within the City's shoreline jurisdiction.

#### **8.07 Industrial**

Industrial developments are facilities for processing, manufacturing and storage of finished or semi-finished goods and food stuffs.

##### **A. Policies:**

1. Industrial development should not be located on sensitive or ecologically valuable shorelines or on shorelines inherently hazardous for such development.
2. New industrial development should be required to provide physical and/or visual access to shorelines and visual access to facilities whenever possible and when such access does not cause significant interference with operations or hazards to life and property.

##### **B. Regulations:**

1. Accessory development which does not require a shoreline location shall be located upland of the water-dependent portions of the development and setback from the OHWM as set forth in the Environment Designation.

2. The developer must demonstrate that adequate consideration has been given to and plans made to mitigate negative environmental impacts including but not limited to air, water, aesthetics, noise pollution, and the loss of public access or fish and wildlife habitat.
3. All new or expanded upland industrial development shall be set back and buffered from adjacent shoreline properties which are used for non-industrial purposes. Buffers shall be of adequate width, height and plant and soil composition to protect shorelines and such other properties from visual or noise intrusion, minimize erosion and protect water quality. New or expanded industrial development shall be setback and buffered from the shoreline except those water-dependent portions of the development which require direct access to the water or shoreline and any adverse impacts are minimized.
4. Buffers shall not be used for storage of industrial equipment or materials, nor for waste disposal, but may be used for outdoor recreation if consistent with public access and other provisions of the Shoreline Management Program.
5. Industrial activities and uses are only allowed in the environments indicated in Table 1, Permitted Shoreline Uses (page 65), and Table 3, Shoreline Modification Activities (page 69).
6. All industrial activities and uses must comply with the setback requirements in Table 2, Development Standards (page 67).

#### **8.08 Mineral Extraction**

Mineral extraction is the removal and primary processing of naturally occurring materials from the earth for economic use. The operation and activities associated with mineral extraction could negatively impact the surrounding environment if precautions are not taken.

##### **A. Policies:**

1. Mineral extraction should not be allowed in unique and fragile areas, in prime agricultural areas or on marine beaches.
2. Mineral extraction activities should allow the natural shoreline systems to function with a minimum of disruption during their operations and should return the site to as near natural a state as possible upon completion.
3. Mineral extraction operations should minimize adverse visual and noise impacts on surrounding shoreline areas.
4. Mineral extraction activities should be encouraged to locate outside shoreline jurisdiction.

##### **B. Regulations:**

1. Excavation of sand, gravel, and other minerals shall be done in strict conformance to the Washington State Surface Mining Reclamation Act (Chapter 78.44 RCW and applicable provisions of the city code).

2. Mineral extraction operations shall comply with all local, state and federal water quality standards and pollution control laws. Operations shall utilize effective techniques to prevent or minimize surface water runoff, erosion and sedimentation; prevent reduction of natural flows; protect all shoreline areas from acidic or toxic materials; and maintain the natural drainage courses of all streams. Surface water runoff shall be impounded as necessary to prevent accelerated runoff and erosion.
3. Mineral extraction operations shall provide maximum protection for anadromous fisheries resources, including but not limited to limitations on the periods of the year during which the activities may occur.
4. Excavation of sand, gravel and other minerals by the open pit method (not including the scalping of streamway bars) is prohibited within the floodways.
5. A minimum one hundred (100) foot buffer of undisturbed soils and native vegetation shall be maintained and/or planted between the extraction site (including all accessory facilities) and adjacent properties and abutting bodies of water or wetlands; provided that the water body buffer requirement may be waived for approved streamway bar scalping operations. If vegetative screening is not possible, the City may require artificial screen or fencing to suit the site, operations, and shoreline area.
6. Reclamation plans are required to be submitted with each permit application and shall provide for reclamation of the site into a use which is permitted by this program and shall also indicate when reclamation shall occur.
7. Mineral extraction activities and uses are only allowed in the environments indicated in Table 1, Permitted Shoreline Uses (page 65), and Table 3, Shoreline Modification Activities (page 69).
8. All extraction activities and uses must comply with the setback requirements in Table 2, Development Standards (page 67).

### **8.09 Recreational Development**

Recreational development provides opportunities for the refreshment of body and mind through forms of play, sports, relaxation, amusement or contemplation. This section applies to both publicly and privately owned shoreline facilities intended for use by the public or a private club, group association or individual.

#### **A. Policies:**

1. The location and design of shoreline recreational developments should relate to local population characteristics, density and special activity demands. Acquisition priorities should consider transit access and access for the physically impaired, where planned or available.
2. A variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs.
3. The linkage of shoreline parks, recreation areas and public access points as linear systems, such as hiking paths, bicycle paths, easements and/or scenic drives, should be encouraged.

4. Recreational developments should be located, designed and operated to be compatible with and minimize adverse impacts on environmental quality and valuable natural features as well as on adjacent and surrounding land and water uses.

**B. Regulations:**

1. State and local health agencies have broad regulations which apply to recreation facilities which shall be consulted by local governments when issuing permits (See WAC 173-16-060-21(k)).
2. Recreational facilities are prohibited in fragile or unique areas such as marshes, bogs, swamps, estuaries and accretion beaches, and shall be located outside officially mapped floodways. The city may grant administrative exceptions for non-intensive minor accessory or passive uses.
3. For recreation developments that require the use of fertilizers, pesticides or other toxic chemicals, such as golf courses and play fields, the applicant shall submit plans demonstrating the methods to be used to prevent these chemical applications and resultant leachate from entering adjacent water bodies. Buffer strips and, if practical, shade trees shall be included in the development. The city shall determine the maximum width necessary for buffer strips but in no case shall the buffer strip be less than twenty-five (25) feet.
4. Signs indicating the public's right of access to shoreline areas shall be installed and maintained in a conspicuous location at the point of access and entrance.
5. In approving the shoreline recreational developments, the city shall ensure that the development will maintain, enhance or restore desirable shoreline features including unique and fragile areas, scenic views and aesthetic values.
6. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences and signs, to prevent overflow and to protect the value and enjoyment of adjacent private properties.
7. Recreation activities and uses are only allowed in the environments indicated in Table 1, Permitted Shoreline Uses (page 65).
8. All recreation activities and uses must comply with the setback requirements in Table 2, Development Standards (page 67).

**8.10 Residential Development**

A Substantial Development Permit is not required for construction within shoreline jurisdiction by an owner, lessee or contract purchaser of a single family residence for his own use or the use of his family if construction is consistent with the standards of the Master Program and Shoreline Management Act. Such construction and all normal appurtenant structures must otherwise conform to this Master Program. An "appurtenant structure" means a structure that is necessarily connected to the use and enjoyment of single-family residence and includes a garage, deck, driveway, utilities, fences, and grading which does not exceed two hundred fifty (250) cubic yards.

The Shoreline Management Act exempts from the requirement to obtain a Substantial Development Permit the construction of any structure with a fair market value less than \$2,500. Although these structures are exempt from obtaining a Substantial Development Permit, compliance with the provisions, prohibitions, regulations and development standards of this program is still required to include variance and conditional use permits. Developments other than a single family residence including multifamily, subdivisions, short subdivisions and non-exempt accessory structures are required to obtain a Substantial Development Permit.

A. Policies:

1. Residential development should be permitted only where there are adequate provisions for utilities, circulation and access.
2. Residential construction should be prohibited in environmentally sensitive areas including but not limited to marshes, bogs and swamps, steep bluffs, floodways, etc.
3. Recognizing the single-purpose, irreversible and space consumptive nature of shoreline residential development, new development should provide adequate setbacks and natural buffers from the water and ample open space between structures to protect natural features, preserve views and minimize use conflicts.
4. Subdivisions and multi-residential developments should provide dedicated and improved public access to the shoreline in a manner which is appropriate to the site and the nature of the development.

B. Regulations:

1. Residential development shall not be approved for which flood control, shoreline protection measures or bulkheading will be required to create residential lots or site area. Residential development shall be located and designed to avoid the need for structural shore defense and flood protection works in the future.
2. All residential structures, accessory uses and facilities shall be arranged and designed so as to preserve views and vistas to and from shorelines and water bodies and be compatible with the aesthetic values of the area.
3. Residential development shall meet the standards established in the Environmental Designations as provided in Regulation 4. below.
4. The residential setbacks in the Environmental Designation shall not apply in cases where the adjacent existing development in the area does not meet these established setback standards. In such cases residential structures may be setback common to the average of setbacks for existing dwelling units within fifty (50) feet of side property lines. If there is only one or no dwelling units within fifty (50) feet of side property lines, the shoreline setback requirements in the Environmental Designation shall apply.
5. Subdivisions and planned unit developments of five (5) or more water front lots/units shall dedicate, improve, and provide maintenance provisions for a pedestrian easement which provides area sufficient to ensure usable access to and along the shoreline for all residents of the development and the general public.

## **8.11 Transportation Facilities**

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

### **A. Policies:**

1. New roads, railroads and bridges in shoreline jurisdiction should be minimized, and allowed only when related to and necessary for the support of permitted shoreline activities.
2. Road and railroad locations should be planned to fit the topographical characteristics of the shoreline such that minimum alteration of natural conditions result. New transportation facilities should be located and designed to minimize the need for shoreline protection measures and minimize the need to modify natural drainage systems.
3. Abandoned or unused road or railroad rights-of-way which offer opportunities for public access to the water should be acquired and/or retained for such use.

### **B. Regulations:**

1. Transportation and primary utility facilities shall be required to make joint use of rights-of-way where adverse impact to the shoreline can be minimized by doing so.
2. The following regulation applies to shoreline road ends:
  - a. RCW 37.79.035 and RCW 35.87.130 prohibits the city from vacating any city road which abuts a body of salt or fresh water unless the street or road is not currently used or suitable for boat moorage or launching site, or for a park, viewpoint, recreation, education or other public purposes.
3. New transportation facilities shall be located and designed to minimize or prevent the need for shoreline protective measures such as riprap or other bank stabilization, landfill, bulkheads, groins, jetties or substantial site regrading.
4. Waterway crossings shall be designed to provide minimal disturbance to banks.
5. Any soil or debris accidentally placed in a water channel during bridge construction shall be immediately removed by approved methods.
6. Except where water crossing is necessary, roads, railroads and other transportation facilities permitted shall be located landward of:
  - a. Estuaries;
  - b. Erosion or accretion shoreforms and associated drift sectors and backshore marshes; and
  - c. Officially designated fish, shellfish and wildlife habitats.

7. All shoreline areas disturbed by facility construction and maintenance shall be replanted and stabilized with compatible, self-sustaining vegetation by seeding, mulching or other effective maintenance activity. Such vegetation shall be maintained by the agency or developer constructing or maintaining the road until established.
8. Transportation facilities activities and uses are only allowed in the environments indicated in Table 1, Permitted Shoreline Uses (page 65).
9. All transportation facilities activities and uses must comply with the setback requirements in Table 2, Development Standards (page 67).

### **8.12 Utilities (Primary)**

Utilities are services and facilities that produce, transmit, carry, store, process or dispose of electric power, gas, water, sewage, communications, and oil. The provisions in this section apply to primary use and activities such as solid waste handling and disposal, sewage treatment plants and outfalls, public high tension utility lines on public property or easement, power generating or transfer facilities, gas distribution lines and storage facilities.

#### **A. Policies:**

1. Utilities should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible, rather than creating new corridors. Joint use of right-of-way corridors should be encouraged.
2. Utilities should be prohibited in unique and fragile areas unless no feasible alternatives exist.
3. New utility facilities should be located so as not to require extensive shoreline protection works.
4. Solid waste disposal activities and facilities should be prohibited in shoreline areas.

#### **B. Regulations:**

1. Applications for installation of utility facilities shall include the following:
  - a. Description of the proposed facilities;
  - b. Reason why the utility facility requires a shoreline location;
  - c. Alternative locations considered and reasons for their elimination;
  - d. Location of other utility facilities in the vicinity of the proposed project and any plans to include the facilities of other types of utilities in the project;
  - e. Plans for reclamation of areas disturbed both during construction and following decommissioning and/or completion of the primary utilities useful life;

- f. Plans for control of erosion and turbidity during construction and operation; and
  - g. Identification of any possibility for locating the proposed facility at another existing utility facility site or within an existing utility right-of-way.
2. Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way. 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 liability for the owner.
  3. New utility lines including electricity, communications and fuel lines shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible. Existing above ground lines shall be moved underground during normal replacement processes.
  4. Utility development shall utilize required setback areas (Environment Designation) to provide screening of facilities from water bodies and adjacent properties. Type of screening required shall be determined by the city on a case-by-case basis.
  5. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and upon project completion any disturbed area shall be restored as nearly as possible to pre-project condition including, replanting with native species and maintenance care until the newly planted vegetation is established.
  6. Utility activities and uses are only allowed in the environments indicated in Table 1, Permitted Shoreline Uses (page 65).
  7. All utility activities and uses must comply with the setback requirements in Table 2, Development Standards (page 67).

**TABLE 1**

**PERMITTED SHORELINE USES  
ENVIRONMENT DESIGNATIONS**

	<i>URBAN</i>	<i>RURAL</i>	<i>CONSERVANCY</i>	<i>NATURAL</i>
<b>Agriculture</b>	C	P	C	X
<b>Aquaculture</b>	P	P	C	X
<b>Boating Facilities</b>	P	P	C	X
<b>Commercial</b>				
Water-Dependent	P	C	C	X
Water-Enjoyment	P	C	C	X
Non-Water Related	C	X	X	X
<b>Flood Control Mgmt.</b>	P	P	C	C
<b>Forest Management</b>	P	P	C	X
<b>Industrial</b>				
Water-Dependent	P	C	X	X
Water-Enjoyment	P	C	X	X
Non-Water Related	C	X	X	X
<b>Mineral Extraction (Commercial)</b>	X	X	X	X
<b>Parking Lot (Accessory Use Only)</b>	P	P	C	X
<b>Recreational</b>				
Water-Dependent	P	P	C	C
Water-Enjoyment	P	P	C	C
Non-Water Oriented	C	C	X	X
<b>Residential</b>				
Single-Family	P	C	X	X
Multi-Family	C	X	X	X
<b>Shoreline Stabilization</b>	P	P	C	C

P = Permitted With Standards  
C = Conditional Use Permit Required  
X = Prohibited

**TABLE 1 (cont.)**

	<i>URBAN</i>	<i>RURAL</i>	<i>CONSERVANCY</i>	<i>NATURAL</i>
<b>Signage</b>				
On-Premise	P	P	C	X
Off-Premise/ Outdoor Advertising	X	X	X	X
Public Information/ Temporary	P	P	P	C
<b>Transportation</b>				
Water-Dependent	P	P	C	C
Water-Enjoyment	P	P	C	C
Non-Water Oriented	C	C	C	X
<b>Utilities</b>				
(Primary)	P	P	C	X
(Accessory)	P	P	C	C

**P** = Permitted With Standards

**C** = Conditional Use Permit Required

**X** = Prohibited

**TABLE 2****DEVELOPMENT STANDARDS  
MINIMUM SETBACKS FROM OHWM**

	<i>URBAN</i>	<i>RURAL</i>	<i>CONSERVANCY</i>	<i>NATURAL</i>
<b>Agriculture</b>				
Cultivation & Grazing	25'	25'	50'	N/A
Buildings	50'	50'	100'	N/A
Manure Lagoons	100"	150'	200'	N/A
Feedlots	200'	200'	200'	N/A
<b>Aquaculture</b>				
Water-Dependent	0'	0'	0'	N/A
Non-Water Oriented	25'	50'	100'	N/A
<b>Boating Facilities</b>				
Water-Dependent	0'	0'	0'	N/A
Building	25'	25'	25'	N/A
<b>Commercial</b>				
Water-Dependent	0'	0'	0'	N/A
Water-Enjoyment	25'	25'	25'	N/A
Non-Water Oriented	100'	N/A	N/A	N/A
<b>Forest Management</b>				
	75'	75'	100'	N/A
<b>Industrial</b>				
Building Setback:				
Water-Dependent	0'	0'	N/A	N/A
Non-Water Oriented	100'	N/A	N/A	N/A
<b>Mineral Extraction</b>				
	N/A	N/A	N/A	N/A
<b>Parking Lot</b>				
Primary	N/A	N/A	N/A	N/A
Accessory (includes campsites)	25'	50'	50'	N/A
<b>Recreational</b>				
Non-Water Oriented	100'	100'	N/A	N/A
Accessory Uses <sup>1</sup>	25'	25'	25'	25' <sup>2</sup>
Camping <sup>3</sup>	25'	25'	25'	25'
Intensive Uses <sup>4</sup>	100'	100'	N/A	N/A

**TABLE 2 (cont.)**

	<i>URBAN</i>	<i>RURAL</i>	<i>CONSERVANCY</i>	<i>NATURAL</i>
<b>Residential</b>				
All Dwelling Units	25'	75'	N/A	N/A
<b>Transportation</b>				
Access Roads	25'	50'	50'	N/A
Arterials, Highways, Railroads	100'	100'	100'	N/A
Non-Arterial & Secondary	50'	100'	100'	N/A
<b>Utilities<sup>5</sup></b>				
Primary	100'	100'	100'	N/A
Accessory	25'	25'	25'	N/A

1. Accessory Uses include access roads, restrooms and accessory structure setback.
2. Interpretive trails are allowed within setback.
3. Camping includes campsites and picnic areas.
4. Intensive uses include golf courses and sportsfield areas with setbacks typically consisting of buffer landscaping.
5. Does not include maintenance or replacement of existing utilities.

**TABLE 3**

**SHORELINE MODIFICATION ACTIVITIES  
ENVIRONMENT DESIGNATIONS**

	<i>URBAN</i>	<i>RURAL</i>	<i>CONSERVANCY</i>	<i>NATURAL</i>
<b>Beach Enhancement</b>	P	P	C	X
<b>Breakwaters/Jetties/ Groins</b>	P	C	C	X
<b>Bulkheads</b>	P	C	C	X
<b>Dikes and Levees</b>	C	C	C	X
<b>Dredging</b>	C	C	C	X
<b>Landfill</b>	C	C	C	X
<b>Piers and Docks</b>	P	P	C	X
<b>Riprap and Bank Protection</b>	P	C	C	C

**P** = Permitted

**C** = Conditional Use Permit Required

**X** = Prohibited

## **Chapter 9.00 Shoreline Modification Policies and Regulations**

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

Activity policies and regulations are intended to prevent, reduce and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the Shoreline Management Act. A proposed development must meet all of the regulations for both applicable uses and activities as well as the general and environment designation regulations.

The following general policies and regulations apply to all modification activities in the City of Montesano. The policies and regulations for each specific activity is further analyzed in subsequent sections.

### **9.01 General Modification Activities**

#### **A. Policies:**

1. Riprapping and other bank stabilization measures should be located, designed and constructed primarily to prevent damage to existing development. All new development should be located and designed to prevent or minimize the need for shoreline stabilization measures and flood protection works. New development requiring shoreline stabilization should be discouraged.
2. Stabilization and protection works which are more natural in appearance, more compatible with on-going shore processes and more flexible for long term streamway management such as protective berms or vegetative stabilization should be encouraged over structural means such as concrete revetments or extensive riprap.
3. Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that non-structural solutions would not be able to reduce damage.
4. Substantial stream channel direction modifications, realignment, and straightening should be discouraged as a means of shoreline stabilization and flood protection.
5. The design of stabilization or protection works should provide for the long term multiple use of streamway resources and public access to shorelines. In the design of publicly financed or subsidized works, consideration should be given providing public pedestrian access to shorelines for low-intensity outdoor recreation.
6. River reaches existing in their natural state, which are not now influenced by urban growth and channelization, should be identified and preserved in their natural state, free of shoreline modification.

#### **B. Regulations:**

1. All applicable federal and state permits shall be obtained and complied with in the construction and operation of shoreline stabilization and flood protection works.

2. All new development activities shall be located and designed to prevent or minimize the need for shoreline stabilization and flood protection works, such as bulkheads, riprap, landfills, levees, dikes, or substantial site regrades.
3. The City shall require and utilize the following information during its review of shoreline stabilization and flood protection proposals and shoreline modification proposals:
  - a. Purpose or project;
  - b. Hydraulic characteristics of river within one-half mile on each side of proposed project;
  - c. Existing shoreline stabilization and flood protection devices within one-half mile on each side of proposed project for stabilization and flood protection proposals, and existing shoreline modification structures within one-half mile on each side of proposed project for shoreline modification proposals;
  - d. Construction material and methods;
  - e. Physical, geological and/or soil characteristics of the area;
  - f. Predicted impact upon area shore and hydraulic processes, adjacent properties and shoreline and water uses; and
  - g. Alternative measures (including non-structural) which will achieve the same purpose.
4. Shoreline stabilization or flood control works shall, to the extent possible, be planned, designed and constructed to allow for channel migration. These works shall not reduce the volume and storage capacity of rivers and adjacent wetlands or flood plains.
5. Use of car bodies, uprooted tree stumps, scrap building materials (except clean, broken concrete covered by riprap), asphalt from street work, or any discarded pieces of equipment or appliances for the stabilization of shorelines shall be prohibited.
6. Shoreline Modification Activities and uses are only allowed in the environments indicated in Table 3, Shoreline Modification Activities (page 69).
7. All Shoreline Modification Activities and uses must comply with the setback requirements in Table 2, Development Standards (page 67).

## **9.02 Beach Enhancement**

Beach enhancement concerns the upgrading of terrestrial and tidal shorelines along with submerged shorelines for the purpose of recreation and aquatic habitat restoration.

### **A. Policies:**

1. All beach enhancement projects should ensure that aquatic habitats, water quality and

flood holding capacity are not degraded by the action.

2. All beach enhancement projects should require the designs and use of naturally regenerating systems for the prevention and control of beach erosion over bulkheads and other structures.

**B. Regulations:**

1. Beach enhancement may be permitted as a conditional use when the applicant has demonstrated that no significant change in littoral drift will result which will adversely affect adjacent properties or habitat.
2. All beach enhancements must conform to the General Policies, Regulations and Environment Designation Provisions stated in this Master Program.
3. All beach enhancement activities must be in support of an allowable shoreline use that is in conformance with the provisions of this Master Program.

**C. Prohibited:**

1. Beach enhancement is prohibited within spawning, nesting or breeding habitat and also where littoral drift of the materials adversely affects adjacent spawning grounds or other areas of biological significance.
2. Beach enhancement is prohibited if it interferes with the normal public use of the navigable waters of the state.

### **9.03 Breakwaters/Jetties/Groins**

Breakwaters are protective structures usually built offshore to protect navigation, beaches and bluffs from wave action.

Jetties are structures generally built singly or in pairs perpendicular to the shore at river mouths to prevent the shoaling or accretion of littoral sand drift.

Groins are wall-like structures built seaward perpendicular to the shore for the purpose of building or preserving an accretion beach by trapping littoral sand drift on the updrift side.

**A. Policies:**

1. Breakwaters, jetties and groins should provide public access or multiple use opportunities to increase public use and enjoyment of the shorelines where such access is safely compatible with the structure.
2. Jetties should generally be discouraged because they partially or totally block shore processes, are irreversible in nature and require an on-going and costly dredging or beach feeding program to alleviate erosion or accretion problems.
3. Proposals not utilizing breakwaters, jetties and groins should be preferred over

developments requiring the use of these activities.

4. Protection of the area's scenic and aesthetic resources should be given serious consideration in the review of proposals for breakwaters, jetties and groins.
5. Jetties and groins should be located, designed, and constructed primarily to prevent damage to existing developments. New development requiring such structures should be discouraged.

**B. Regulations:**

1. The design of breakwaters, jetties and groins shall conform to all applicable requirements established by the State Departments of Fisheries and Wildlife and the U.S. Army Corps of Engineers.
2. The City of Montesano shall require and utilize the following information during its review of proposals for breakwaters, jetties and groins:
  - a. Purpose of the structure;
  - b. Construction of project relative to toe and crest of uplands;
  - c. Location of project relative to toe and crest of uplands;
  - d. Ordinary land and high water elevations;
  - e. Net and seasonal direction and quantities of littoral drift, tidal currents (if any), and river currents; and
  - f. Seasonal wind data, wind rose.

The following additional information is required for groins:

- g. Profile of uplands;
  - h. Beach type, slope and materials;
  - i. Uplands type, slope and materials;
  - j. Soils types (SCS);
  - k. Physical or geological stability of uplands.
3. Breakwaters, jetties and groins shall be prohibited in lakes.
4. Jetties and groins shall only be permitted by conditional use for navigational purposes, industrial activity, marinas, erosion control, fisheries or habitat enhancement, and public beach management as integral components of an overall resource management plan.
5. All breakwaters, jetties and groins must conform to the General Policies, Regulations

and Environment Designation Provisions stated in this Master Program.

6. All breakwater, jetty and groin activities must be in support of an allowable shoreline use that is in conformance with the provisions of this Master Program.

#### **9.04 Bulkheads**

Bulkheads are walls usually constructed parallel to the shore whose primary purpose is to contain and prevent the loss of soil caused by erosion or wave action. They are used to protect bluffs by retaining soil at the toe of the slope or by protecting the toe from erosion and undercutting. Bulkheads may also be used to protect the perimeter of a fill often associated with single family residences and other developed properties.

Uses and activities related to bulkheads which are identified as separate use activities in this program, such as Flood Control Management, Landfill, Residential, Commercial and Industrial development, are subject to the regulations for those uses in addition to the standards for bulkheads established in this section.

##### **A. Policies:**

1. Defense works of natural materials such as protective berms or vegetative stabilization are strongly preferred over structural defense works, of materials such as steel, wood, or concrete, because the former have less adverse and cumulative impacts on shore features and habitats.
2. Bulkheads should be located, designed and constructed primarily to prevent damage to existing development. New development requiring bulkheads and/or similar protection should be discouraged.
3. Shoreline uses should be located in a manner so that bulkheading is not likely to become necessary in the future.
4. The cumulative effects of allowing bulkheads along segments of shoreline should be evaluated prior to granting individual permits or exemptions.

##### **B. Regulations:**

1. Bulkhead design and development shall conform to all other applicable state agency policies and regulations including the Department of Fisheries criteria governing the design of bulkheads.
2. Natural materials and processes such as protective berms, drift logs, brush, beach feeding or vegetative stabilization shall be utilized to the maximum extent practical.
3. The City of Montesano shall require and utilize standards found in General Regulations section of this chapter in its review of bulkhead proposals as well as a means to ensure passage of surface and/or groundwater.
4. Bulkheads may be allowed only when evidence is presented which conclusively

demonstrates that one of the following conditions exist:

- a. Serious wave or river current erosion threatens an established use or existing building(s) on upland property;
  - b. Bulkheads are necessary to the operation and location of water-dependent and water-related activities consistent with this Master Program, provided that all alternatives have proven infeasible (i.e. use relocation, use design, non-structural shore stabilization options) and that such bulkheads meet other policies and regulations of this chapter; or
  - c. Proposals for bulkheads must first demonstrate that use of natural materials and processes and non-structural solutions to bank stabilization are impractical in protecting existing development.
5. The construction of a bulkhead for the primary purpose of retaining landfill waterward of the OHWM shall be prohibited, unless it is proposed in conjunction with a water-dependent or public use and is consistent with the other policies and regulations of the program.
  6. All bulkheads must conform to the General Policies, Regulations and Environment Designation Provisions stated in this Master Program.
  7. All bulkhead activities must be in support of an allowable shoreline use that is in conformance with the provisions of this Master Program.

**Prohibited:**

8. Bulkheads are prohibited for any purpose if they will cause significant adverse erosion or beach starvation.
- C. Exemptions: The Shoreline Management Act only exempts the construction of a normal protective bulkhead common to an existing single family residence from the Substantial Development Permit requirement. However, these structures are required to comply with all the policies, prohibitions and development standards of this Master Program and of this section. To qualify for the RCW 90.58.030 (3-e-ii) and WAC 173-14-040-1C exemption from the shoreline Substantial Development Permit requirement, and to assure that such bulkheads will be consistent with this program, a statement of exemption should be obtained from the City of Montesano before commencing construction.

### **9.05 Dikes and Levees**

Dikes and levees are manmade earthen embankments for the purpose of flood control.

**A. Policies:**

1. Dikes and levees should be located, designed, constructed and maintained so that their resultant effects to onshore processes will not cause significant damage to adjacent properties or valuable resources, and so that the physical integrity of the natural shore

process is maintained.

2. Dikes and levees should be permitted only when the primary use being protected is consistent with this program and that they can be developed in a manner compatible with the multiple use of the floodway and associated resources, such as wildlife habitat, water quality, aesthetics, recreational resources and public access.

B. Regulations:

1. Dikes and levees shall be designed, constructed and maintained in accordance with Hydraulic Permit Approval and in consideration of resource agency recommendations.
2. Dikes and levees shall protect the natural processes associated with streamways including but not limited to wildlife habitat, water quality, etc.
3. Dikes and levees shall be limited in size to the minimum height required to protect adjacent lands from the projected flood stage.
4. Dikes and levees shall not be placed in the floodway except for current deflectors necessary for protection of bridges and roads.
5. Public access shall be provided in accordance with Public Access policies and regulations contained herein. Improved trail systems along diked or levee shorelines are preferred.
6. Dikes and levees shall only be authorized by a conditional use permit and shall be consistent with the comprehensive flood control management plan.
7. All dikes and levees must conform to the General Policies, Regulations and Environment Designation Provisions stated in this Master Program.
8. All dike and levee activities must be in support of an allowable shoreline use that is in conformance with the provisions of this Master Program.

### **9.06 Dredging and Dredge Disposal**

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any stream, river, lake, and associated shorelines and wetlands.

Dredge material disposal is the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands for other uses or disposing of the by-products of dredging.

Note: Dredge material disposal on land is also subject to the landfill policies and regulations of this program.

A. Policies:

1. Dredging should be located and conducted in a manner which minimizes damage to existing ecological values and natural resources of the area to be dredged and the disposal

site.

2. Dredging of bottom materials for the primary purpose of obtaining fill materials is strongly discouraged.
3. Dredging operations should be planned and conducted to minimize interference with navigation and adverse impacts to other shoreline uses, properties and values.
4. Dredging operations should be periodically reviewed for consistency with the Shoreline Master Program.

B. Regulations:

1. Applications for shoreline dredging shall provide the following types of information:
  - a. Physical, chemical and biological assessment of the proposed dredged material applicable to the particular dredging site;
  - b. Dredging volumes, methods, schedule, frequency, hours of operation, specific area depths of dredging and procedures;
  - c. Method of disposal, including the location, size, capacity and physical characteristics of the disposal site, transportation method and routes, hours of operation, and schedule;
  - d. Location and stability of bedlands adjacent to proposed dredging area;
  - e. Assessment of water quality impacts; and
  - f. Biological assessment including migratory, seasonal, and spawning use areas.
2. In evaluating permit applications for any dredging project, the adverse effects of the initial dredging, subsequent maintenance dredging and dredge disposal that will be necessary shall be considered. Dredging and dredge disposal shall be permitted only where it is demonstrated that the proposed actions will not:
  - a. Result in significant and/or ongoing damage to water quality, fish, shellfish and other essential marine biological elements; and
  - b. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities.
3. Proposals for dredging and dredge disposal shall include all feasible mitigating measures to protect marine habitats and to minimize adverse impacts.
4. Dredging and dredge disposal shall not occur in marshes, bogs or swamps, except as authorized by conditional use permit provided the wetland does not serve any of the valuable functions of wetlands identified in this Master Program.
5. Dredging and dredge disposal shall be carefully scheduled to protect biological

productivity and to minimize interference with fishing activities.

6. Dredging and dredge disposal shall be prohibited on or in archaeological sites which are listed on the Washington State Register of Historic Places until such time that they have been released by the State Archaeologist.
7. All dredging and dredge disposal must conform to the General Policies, Regulations and Environment Designation Provisions stated in this Master Program.
8. All dredging and dredge disposal activities must be in support of an allowable shoreline use that is in conformance with the provisions of this Master Program.

### **9.07 Landfill**

Fill is the placement of soil, rock, gravel, or add to existing sediment or other material to create new land, tideland or bottom land area along the shoreline below the OHWM, or on upland areas in order to raise the elevation. Any landfill activity conducted within shoreline jurisdiction must comply with the following provisions.

#### **A. Policies:**

1. Landfills waterward of the OHWM should be allowed only when necessary to facilitate water-dependent and/or public access uses which are consistent with this Master Program.
2. Shoreline fills should be designed and located so that there will be no significant damage to existing ecological systems or natural resources, and no alteration of local currents, surface water drainage or flood waters which would result in a hazard to adjacent life, property, and natural resource systems.
3. In evaluating fill projects, such factors as conflict with potential and current public use of the shoreline and water surface area, total water surface reduction, navigation restriction, impediment to water flow and drainage, reduction of water quality, and destruction of habitat should be considered. Further, the City of Montesano should assess the overall value of the landfill site in its present state versus the proposed shoreline use to be created to ensure consistency with the Shoreline Management Act and this Master Program.
4. The perimeter of landfills should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial landfill activities and over time.
5. Where permitted, landfills should be the minimum necessary to provide for the proposed use and should be permitted only when tied to a specific development proposal that is permitted by this Master Program. Speculative landfill activity should be prohibited.
6. Sanitary landfills should not be located in shoreline jurisdiction.

#### **B. Regulations:**

1. Applications for landfill permits shall include the following:

- a. Proposed use of the landfill area;
  - b. Physical, chemical and biological characteristics of the fill material;
  - c. Source of landfill material;
  - d. Method of placement and compaction;
  - e. Location of landfill relative to natural and/or existing drainage patterns;
  - f. Location of the landfill perimeter relative to the OHWM;
  - g. Perimeter erosion control or stabilization methods; and
  - h. Type of surfacing and runoff control devices.
2. Landfill waterward of the OHWM shall be permitted as a conditional use only:
    - a. In conjunction with a water-dependent or public use permitted by this Master Program;
    - b. In conjunction with a bridge or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist;
    - c. For fisheries, aquaculture, or wildlife habitat enhancement projects.
  3. Pile or pier supports shall be utilized whenever feasible in preference to landfills. Landfills for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven infeasible.
  4. Landfills are prohibited in floodplains except where it can be clearly demonstrated that the geohydraulic characteristics and floodplain storage capacity will not be altered to increase flood hazard or other damage to life or property. Landfills are prohibited in floodway, except when approved by conditional use permit and where required in conjunction with a proposed water dependent or other use, specified in Regulation 2 above.
  5. Environmental review of proposed landfills shall be accomplished concurrently with review of the intended use, and the threshold determination concerning the need for an environmental impact statement shall be based on this combined project review.
  6. Landfills shall be permitted only where it is demonstrated that the proposed action will not:
    - a. Result in significant damage to water quality, fish, shellfish and/or wildlife habitat;  
or
    - b. Adversely alter natural drainage and circulation patterns, currents, river and tidal flows or significantly reduce flood water capacities.

7. All landfills must conform to the General Policies, Regulations and Environment Designation Provisions stated in this Master Program.
8. All landfill activities must be in support of an allowable shoreline use that is in conformance with the provisions of this Master Program.

### **9.08 Piers and Docks**

Piers and docks are structures which abut the shoreline and are used as a landing or moorage place for commercial and pleasure craft. Piers are built on fixed platforms above the water, while docks float upon the water.

#### **A. Policies:**

1. Multiple use and expansion of existing consistent piers, wharfs and docks should be encouraged over the addition and/or proliferation of new facilities. Joint use facilities are preferred over new single use piers and docks.
2. Piers and docks should be designed to cause minimum interference with navigable waters and the public's use of the shoreline.
3. Piers and docks should be sited and designed to minimize possible adverse environmental impacts, including water circulation and quality, and fish and wildlife habitat.
4. Pier and dock projects are encouraged to provide for public docking, launching and recreational access.
5. Local programs and coordinated efforts among private and/or public agencies should be initiated to remove or repair failing, hazardous or nonfunctioning piers and docks and restore such facilities and/or shore resources to a natural and/or safe condition.

#### **B. Regulations:**

1. Proposals for piers or docks shall include at a minimum the following information:
  - a. Description of the proposed structure, including its size, location, design and any shoreline stabilization or other modification required by the project;
  - b. Ownership of shorelands;
  - c. Proposed location of piers and docks relative to property lines and the OHWM; and
  - d. Location width, height and length of piers or docks on adjacent properties within 300 feet.
2. In areas identified by the Departments of Fisheries, Wildlife or Natural Resources as having a high environmental value for fish life or wildlife, piers and docks shall not be allowed except where functionally necessary to the propagation, harvesting, testing or experimentation of said marine fisheries or wildlife, unless approved by conditional use

permit and it can be conclusively established that the dock or pier will not be detrimental to the natural habitat or species of concern.

3. Piers and docks shall not significantly interfere with use of navigable waters.
4. Piers and docks on river shores are prohibited along braided or meandering river channels or where the river channel is subject to change in direction or alignment.
5. All piers and docks utilized for residential purposes shall not exceed six (6) feet in width, thirty (30) feet in length or 180 total square feet.
6. All piers and docks utilized for commercial or industrial facilities shall be permitted for water-dependent and for multiple use facilities if the majority use is water-dependent and public access can safely be provided. The length should be no more than that required for the draft of the largest vessel expected to moor at the facility. Maximum size of the pier or dock shall be no greater than necessary to serve the intended use, and will be determined by the City on a case-by-case basis.
7. All piers and docks shall be constructed and maintained in a safe and sound condition.
8. All piers and docks must conform to the General Policies, Regulations and Environment Designation Provisions stated in this Master Program.
9. All pier and dock activities must be in support of an allowable shoreline use that is in conformance with the provisions of this Master Program.

#### **9.09 Revetments (riprap and bank protection)**

A revetment is a sloped shoreline structure built to protect an existing eroding shoreline or newly placed fill against waves, wakes, currents, or weather. Revetments are most commonly built of randomly placed boulders (riprap).

##### **A. Policies:**

1. The use of revetments should be limited to situations where it is determined that non-structural solutions such as bioengineering, setbacks, and buffers or any combination thereof will not provide sufficient shoreline stabilization.
2. The construction and maintenance of revetments should not reduce the quality of the existing environment.
3. If through construction and/or maintenance of revetments or loss of riparian vegetation and habitat occurs, mitigation should be required.
4. Revetments should be designed, improved and maintained to provide public access whenever possible.

##### **B. Regulations:**

1. All forms of revetments shall be constructed and maintained in a manner that does not reduce water quality and/or fisheries habitat.
2. Bank revetments, where permitted, shall be placed at the extreme edge or bank of the shoreline.
3. Design of public works shall include and provide improved access to public shorelines whenever possible.
4. All revetments must conform to the General Policies, Regulations and Environment Designation Provisions stated in this Master Program.
5. All revetment activities must be in support of an allowable shoreline use that is in conformance with the Provisions of this Master Program.

## ***APPENDIX B***

### **CITY OF MONTESANO SHORELINE MASTER PROGRAM**

#### **SHORELINE ENVIRONMENT DESIGNATIONS DESCRIPTIONS**

**Urban Shoreline Environment:** The Urban Shoreline Environment involves three separate areas.

1. Beginning at the intersection of Main Street and the Eastbound on-ramp for U.S. 12 (NE quarter of Sec. 7, T17N, R7W) South along Main Street to a point 50' north of Schofield Creek, thence Northeast along a line 50' from the Ordinary High Water Mark (OHWM) of Schofield Creek to the East Section line of Section 7 north to the U.S. 12 on-ramp, thence West back to the point of beginning.
2. Beginning at a point on the East Section line of Section 7 330' South of the OHWM of Schofield Creek, thence North along the East Section line of Section 7 to a point 50' South of the OHWM of Schofield Creek, thence along a line 50' from the OHWM of Schofield Creek to the OHWM on the North bank of the Chehalis River, thence North and East to the East City Limits, thence North to a point due East of the point of beginning, thence West 1,350' back to the point of beginning.
3. Beginning at a point 50' South of the intersection of Schofield Creek and Main Street, thence South along Main Street to the intersection of South Montesano Street, thence South 700' along South Montesano Street, thence due East to the OHWM on the North bank of the Chehalis River, thence North to a point 50' South of the OHWM of Schofield Creek, thence Westerly along a line 50' South of the OHWM of Schofield Creek back to the point of beginning.

**Rural Shoreline Environment:** The Rural Shoreline Environment involves four separate areas.

1. Beginning at a point 200' North of the intersection of Sylvia Creek and the West City Limits, thence South along a line 200' West of the OHWM of Sylvia Creek only within the City Limits to the City Limits North of U.S. 12, thence East along the City Limits 1,050', thence Northwesterly to a point on the Burlington Northern Rail Road (BNRR) 1,000' East of the City Limits, thence Southwesterly along the BNRR to a point 200' East of the OHWM of Sylvia Creek, thence North along a line 200' East of the OHWM of Sylvia Creek and including associated wetlands back to the point of beginning.
2. Beginning at a point on South Montesano Street 700' South of the intersection of Main and South Montesano Streets, thence South along South Montesano Street to a point 200' North of the OHWM on the North bank of the Chehalis River, thence West along a line 200' from the OHWM to a point 200' East of the OHWM on the Wynoochee River, thence South along this line to the OHWM on the Chehalis River, thence North to a point due East of the point of beginning, thence West 300' back to the point of beginning.

3. Beginning at a point 200' West of the Lake Sylvania shoreline along Sylvania Creek, thence South along a line 200' from the Lake Sylvania shoreline to the State Park entrance road, thence Northeast along this road to the extreme Northern extent of the road, thence Northwest to the Lake Sylvania shoreline, thence along the shoreline to the headwaters of Sylvania Creek, thence west along Sylvania Creek back to the point of beginning.
4. Beginning at the intersection of the East Section line of Section 31 (T18N, R7W) and the North shoreline of Lake Sylvania, thence Northeasterly to a point 1,100' along the shoreline, thence due North to a point 200' from the shoreline, thence Southwesterly along a line 200' from the Lake Sylvania shoreline to the East Section line of Section 31, thence South back to the point of beginning.

**Conservancy Shoreline Environment:** The Conservancy Shoreline Environment involves six separate areas.

1. Beginning at the intersection of the headwaters of Sylvania Creek and Lake Sylvania, thence Northeasterly along the shoreline to the East Section line of Section 31 (T18N, R7W), thence due North to a point 200' from the Lake Sylvania shoreline, thence West along a line 200' from the shoreline to Sylvania Creek, thence East along the Creek back to the point of beginning.
2. Beginning at a point on the North shoreline of Lake Sylvania 1,100' Northeast of the East Section line of Section 31, thence following the shoreline completely around the Northern portion of the Lake to a point located Northwest of the furthest extent of the entrance road, thence Southeast 200' along a line perpendicular from the shoreline, thence Northeast along a line 200' from the shoreline around the lake to a point 200' due North of the point of beginning, thence due South back to the point of beginning.
3. Beginning at a point on the BNRR 1,000' East of the City Limits, thence Southeast to a point on the City Limits line 900' East of the intersection of Sylvania Creek and the City Limits, thence East along the City Limits to a point 200' South of U.S. 12, thence East following the Southern boundary of the associated wetland boundary to a point 50' West of the OHWM of Schofield Creek, thence North along this line 200' to the East boundary of associated wetlands, thence Northeast along this boundary to a point on the railroad spur parallel to Main Street 250' South of the U.S. 12 Eastbound off-ramp, thence North along this railroad spur to the off-ramp, thence East along the off-ramp, across Main Street and continuing on the North side of the Eastbound on-ramp, thence continuing on the South side of the Westbound off-ramp to Main Street, thence South along Main Street to the Westbound on-ramp, thence West 500' to the associated wetland boundary on the North side of the on-ramp, thence following the associated wetland boundary to a point on the BNRR 1,150' West of Main Street, thence Southwesterly along the BNRR back to the point of beginning.
4. Beginning at a point 50' North of the intersection of Schofield Creek and the East Section line of Section 7 (T17N, R7W), thence Southwest along a line 50' from the OHWM of Schofield Creek to the OHWM on the North bank of the Chehalis River, thence North to a point 50' North of the intersection of Schofield Creek and the Chehalis River, thence West along a line 50' from the OHWM of Schofield Creek to the East Section line of Section 7, thence North along this line back to the point of beginning.

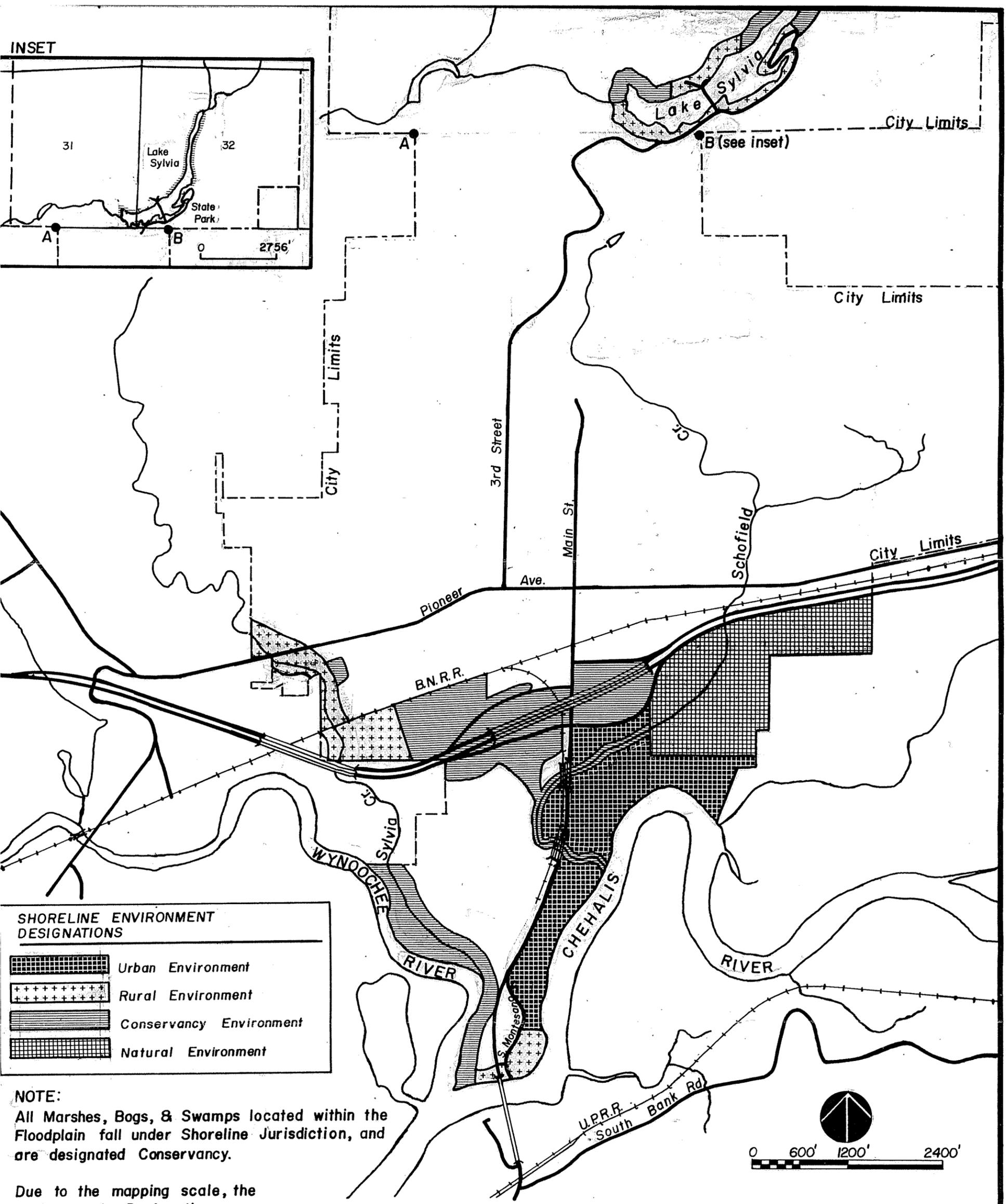
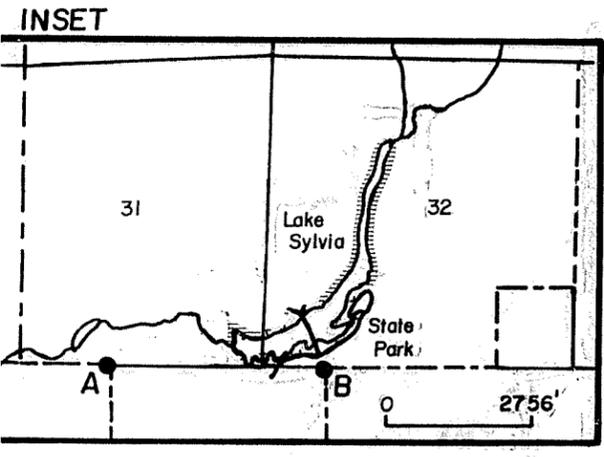
5. Beginning at the point of convergence of the OHWM of the Chehalis and Wynoochee Rivers, thence East 200' along the OHWM, thence North along a line 200' from the East OHWM of the Wynoochee River changing to Sylvia Creek at the convergence of the two, to the City Limits line, thence West to the OHWM along the East bank of the Wynoochee River, thence South along the East OHWM of the Wynoochee River back to the point of beginning.
6. Beginning at a point 500' due North of the intersection of Sylvia Creek and the BNR, thence Northwest 330' along a line 200' East of the OHWM of Sylvia Creek, thence Northeast following the associated wetland boundary back to the point of beginning.

**Natural Shoreline Environment:** The Natural Shoreline Environment involves one area.

1. Beginning at the intersection of the East City Limits and the Southern right-of-way of U.S. 12, thence West along the U.S. 12 right-of-way line to the West Section line of Section 8 (T17N, R7W), thence South along this line 750', thence due East to the City Limits, thence following the City Limits North back to the point of beginning.





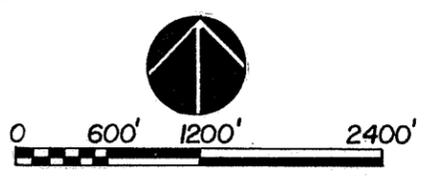


**SHORELINE ENVIRONMENT DESIGNATIONS**

	Urban Environment
	Rural Environment
	Conservancy Environment
	Natural Environment

**NOTE:**  
 All Marshes, Bogs, & Swamps located within the Floodplain fall under Shoreline Jurisdiction, and are designated Conservancy.

Due to the mapping scale, the Environment Designations are general in nature. All proposals involving these delineations should be reviewed on a case-by-case basis.



APPENDIX A:  
 Shorelines Boundary and Environments  
 CITY of MONTESANO