



## LAKWOOD CITY COUNCIL STUDY SESSION AGENDA

Monday, July 28, 2014  
7:00 P.M.  
City of Lakewood  
City Council Chambers  
6000 Main Street SW  
Lakewood, WA 98499

Page No.

### CALL TO ORDER

### ITEMS FOR DISCUSSION:

- ( 4) 1. Joint Redevelopment Advisory Board meeting.
- ( 5) 2. Review of the Shoreline Master Plan. – (Memorandum)
- (204) 3. Review of the proposed subdivision code amendments. – (Memorandum)
- (290) 4. Review of the proposed communal housing regulations. - (Memorandum)

### BRIEFING BY THE CITY MANAGER

- (363) Permit fees for industrial warehouse projects. – (Memorandum)

### ITEMS TENTATIVELY SCHEDULED FOR THE AUGUST 4, 2014 REGULAR CITY COUNCIL MEETING:

- 1. Item Nos. 2 - 4 above.
- 2. Authorizing the execution of an agreement with the Washington State Department of Transportation for right-of-entry and construction management for the Madigan Access Phase 2 project. – (Motion – Regular Agenda)
- 3. Authorizing the execution of an agreement with the Washington State Department of Transportation for reimbursement of railroad and signal elements relative to the Madigan Access project. – (Motion – Regular Agenda)
- 4. Authorizing the execution of an interlocal agreement with the Lakewood Water District for constructing water mains along Bridgeport Way from 83<sup>rd</sup> Street SW to 75<sup>th</sup> Street W. – (Motion – Regular Agenda)

*The City Council Chambers is accessible to persons with disabilities. Equipment is available for the hearing impaired. Persons requesting special accommodations or language interpreters should contact the City Clerk's Office, 589-2489, as soon as possible in advance of the Council meeting so that an attempt to provide the special accommodations can be made.*

<http://www.cityoflakewood.us>

*The Council Chambers will be closed 15 minutes after adjournment of the meeting.*

5. Authorizing the execution of an amendment to the franchise agreement with Zayo Group, LLC, for installing fiber cabling along Steilacoom Boulevard from Durango to Farwest Drive SW. – (Motion – Regular Agenda)

## **CITY COUNCIL COMMENTS**

## **ADJOURNMENT**

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**CITY OF LAKEWOOD (CITY HALL)**  
 6000 Main Street SW, Lakewood, WA 98499-5027  
 (253) 589-2489

**WEEKLY MEETING SCHEDULE**  
**July 28, 2014 – August 1, 2014**

| Date    | Time                     | Meeting                          | Location  |
|---------|--------------------------|----------------------------------|---|
| July 28 | 7:00 P.M.                | City Council Study Session       | Lakewood City Hall<br>Council Chambers                    |
| July 29 | 6:00 P.M.                | Pacific Neighborhood Association | Children of the Light Ministries<br>5105 Solberg Drive SW |
| July 30 | No Meetings<br>Scheduled |                                  |   |
| July 31 | No Meetings<br>Scheduled |                                  |   |
| Aug 1   | No Meetings<br>Scheduled |                                  |   |

**TENTATIVE WEEKLY MEETING SCHEDULE**  
**August 4, 2014 – August 8, 2014**

| Date  | Time                     | Meeting  | Location  |
|-------|--------------------------|--|---|
| Aug 4 | 4:30 P.M.                | Arts Commission                                | Lakewood City Hall<br>3 <sup>rd</sup> Floor, Conference Room 3A         |
|       | 7:00 P.M.                | City Council                                   | Lakewood City Hall<br>Council Chambers                                  |
| Aug 5 | No Meetings<br>Scheduled |  |   |
| Aug 6 | 5:15 P.M.                | Public Safety Advisory Committee               | Lakewood Police Station<br>Multi-Purpose Room<br>9401 Lakewood Drive SW |
|       | 6:30 P.M.                | Planning Advisory Board                        | Lakewood City Hall<br>Council Chambers                                  |
| Aug 7 | 9:30 A.M.                | Civil Service Commission                       | Lakewood City Hall<br>1 <sup>st</sup> Floor, Conference Room 1E         |
|       | 6:30 P.M.                | Tillicum/Woodbrook Neighborhood<br>Association | Tillicum Community Center<br>14916 Washington Avenue SW                 |
| Aug 8 | No Meetings<br>Scheduled |  |   |

NOTE: The City Clerk's Office has made every effort to ensure the accuracy of this information. Please confirm any meeting with the sponsoring City department or entity.



**Redevelopment Advisory Board (REDAB)  
Joint City Council Meeting - July 28, 2014**

**Members:**

Bruce Bodine  
Jim Charboneau, Chair  
Dan Durr  
Robert Estrada  
James Guerrero  
Louis Imhof  
Timothy Johnson  
Matthew Wallin  
Denise Yochum

**Council Liaison:**

Deputy Mayor Jason Whalen

**Meeting Schedule:**

REDAB meets at a minimum quarterly or as issues arise. Meetings are on the 2nd Tuesday of the month at 7:30 a.m., depending on the need.

**Work Plan:**

These are the items by topic that are or will be before the REDAB at some time this year for their review:

Business retention and expansion efforts

Business Showcase updates

Economic Development Updates

- Central Business District
- Pacific Highway Corridor & Lakewood Station
- Springbrook
- Tillicum
- South Tacoma Way Corridor
- Woodbrook

Economic Development tools and incentives

Emerging issues

Government Contracting events

Municipal Code and zoning updates

Special event updates

Tourism and Promotion

Utility presentations on business models in the Lakewood service area

Workshop/forum updates

**REDAB Support Staff:**

Economic Development Specialist Becky Newton

Administrative Assistant Melody Perrussel



To: Mayor and City Councilmembers

From: Dan Catron, Principal Planner  
Dave Bugher, Assistant City Manager for Development Services

Through: John J. Caulfield, City Manager 

Date: July 28, 2014

Subject: **SHORELINE MANAGEMENT PROGRAM UPDATE- FINAL APPROVAL BY DEPARTMENT OF ECOLOGY**

On May 20, 2013, the City Council adopted a Resolution of Intent to adopt the draft SMP, and forwarded the updates to the WA State Department of Ecology (DOE). The DOE has final authority over the adoption of local shoreline programs per RCW 90.58.090.

On May 6, 2014, the Department of Ecology responded to the City of Lakewood with lists of both required changes and recommended changes to the draft SMP.

Staff has reviewed the required and recommended changes and has incorporated them into the final proposed SMP. Most of the changes are clerical in nature- clarifying language, correcting references and/or providing internal consistency to the code. Other changes make explicit reference to state law. There are, however, some changes that could have a material impact on the regulations. The following are changes that Staff believes could result in a substantive impact to the code:

**REQUIRED CHANGES** (Item #s refer to DOE spreadsheets re: required and recommended changes)

**N-** This section addresses the relationship between the City's shoreline regulations and its critical areas regulations. Within the SMA jurisdiction, the shoreline regulations control. As a result this section clarifies that Waughop Lake would be subject to the setbacks

specified by the shoreline regulations (100 feet) rather than the 35-foot buffer referenced in the City's critical areas regulations.

**O-** This required change provides that wetland buffers for Category I wetlands within the SMA jurisdiction shall be 300, rather than 200, feet as provided in the City's critical areas regulations. It is not clear whether there are any Category I wetlands associated with regulated shorelines within the City.

**V-** This section allows the shoreline administrator to waive public access requirements under certain circumstances. This provision also suggests alternate forms of public access that the shoreline administrator should consider.

**KK-** This change is required to provide internal consistency. The change will clarify that impervious surface coverage within the shoreline setback shall be limited to 10% within 25 feet of the OHWM, and 20% within the remaining portion of the setback. This provides consistency with Table II.

**MM-** This change recognizes that preservation and retention of native vegetation and existing trees is already required by the SMP, and that it would not be appropriate to give setback reductions for actions that are already required. This change would require *restoration* activities to qualify for setback reduction.

**DDD-** This change would require geotechnical analysis of all subdivision projects to assure that lots created through the subdivision will not require shoreline stabilization to in order for reasonable development to occur.

**OOO-** This change requires that any administrative policies, procedures or interpretations shall be made in consultation with the Department of Ecology.

**PPP-** This change provides that the City shall prepare a letters of exemption whenever a qualifying project is subject to one or more federal permits.

**RRR-** Date of filing This change clarifies the "date of filing" for shoreline permits. For substantial development permits, the date of filing is the date that Ecology actually receives the City's decision. For shoreline variance and conditional use permits, the date of filing is the date when Ecology's final decision is transmitted to the City.

### **RECOMMENDED CHANGES**

**JJ-** This change acknowledges that the Washington State Department of Fish and Wildlife (WDFW) is in the process of updating the Hydraulic Code, which may impose additional specific limitations and restrictions on the development of piers and docks. The proposed WDFW standards include requirements that grated decking be used on all docks and piers.

## **RECOMMENDATION**

Staff has no objections to the changes required/recommended by Ecology. The bulk of the changes are minor, serving to clarify language, eliminate ambiguity, and correct technical references. If the Council finds the recommended changes acceptable, Staff recommends that the Council approve an ordinance adopting the proposed updated SMP with the changes as recommended by the Department of Ecology.

## **EXHIBITS**

1. Draft Ordinance
2. Letter from DOE dated May 6, 2014 w /Attachment A
3. DOE Attachment B- Required Changes to updated SMP
4. DOE Attachment C-Recommended Changes to updated SMP
5. SMP final draft dated May 6, 2014

ORDINANCE NO. \_\_\_\_

AN ORDINANCE of the City Council of the City of Lakewood, Washington, adopting a Shoreline Master Program; amending Sections 14A.142.040 and 18A.02.502 Lakewood Municipal Code (LMC); repealing Chapters 14.06, 14.10, 14.14, 14.18, 14.22, 14.26, 14.30, 14.34, 14.38, 14.42, 14.46, 14.50, 14.54, 14.58, 14.62, 14.66, 14.70, 14.74, 14.78, 14.82, 14.86, 14.90, 14.94, 14.98, 14.102, 14.106, 14.110, 14.114, 14.118, 14.122, 14.126, 14.130 and 14.134 LMC; and repealing Sections 18A.40.200 through 18A.40.260 LMC

WHEREAS, the Washington Shoreline Management Act (RCW 90.58, referred to herein as “SMA”) recognizes that shorelines are among the most valuable and fragile resources of the state, and that state and local government must establish a coordinated planning program to address the types and effects of development occurring along shorelines of state-wide significance; and

WHEREAS, although the City of Lakewood adopted interim Shoreline Use Regulations on February 12, 1996, it has never adopted a Shoreline Master Program in accordance with the procedures of WAC 173-26; and,

WHEREAS, on April 23, 1997, the Washington State Department of Ecology notified the City that until the City of Lakewood formally adopts a Shoreline Master Program in accordance with WAC 173-26, the pre-existing shoreline regulations adopted by Pierce County would remain in effect per WAC 173-26-160; and

WHEREAS, the City is required to develop a Shoreline Master Program pursuant to the SMA and WAC 173-26; and,

WHEREAS, in 2009 the City entered into Grant Agreement #G1000045 with the Department of Ecology to update its shoreline master program; and,

WHEREAS, the City of Lakewood retained the firm of AHBL Consultants to develop the draft SMP and guide it through the adoption process; and,

WHEREAS, there was extensive public participation with respect to updating the City’s Shoreline Master Program, including but not limited to the following: holding public forums and open houses, meeting with property owners and forming citizen involvement committees to review and recommend amendments to the designations, policies and regulations of the Shoreline Master Program consistent with the Shoreline Management Act, including at least ten public meetings before the Planning Advisory Board and a formally noticed public hearing on November 9, 2011; and,

WHEREAS, on February 1, 2012, the Planning Advisory Board adopted PAB Resolution 2012-01, recommending that the City Council adopt the proposed updated Shoreline Master Program; and,

WHEREAS, on July 11, 2013, a Determination of Non-Significance was issued consistent with the State Environmental Policy Act (RCW 43.21C), and a Notice of Issuance was published in the Tacoma News Tribune; and,

WHEREAS, on May 20, 2013, the Lakewood City Council adopted a Resolution of Intent to adopt the draft SMP and forwarded the approved draft to the Department of Ecology; and,

WHEREAS on May 6, 2014, the Department of Ecology responded to the City of Lakewood, approving the updated Shoreline Master Program, subject to certain required and recommended changes; and,

WHEREAS, on June 18, 2014, the Planning Advisory Board reviewed the required and recommended changes from DOE and recommended approval of the amended SMP; and,

WHEREAS, July 28, 2014, the City Council considered and accepted Ecology's required and recommended amendments; and

WHEREAS chapters 14.06 through 14.134 LMC currently compose the City's interim regulations, which will be superseded by the adoption of the Shoreline Master Program;

WHEREAS Sections 18A.40.200 through .260 LMC pertain to the Riparian Overlay (RO) zone and can be deleted in their entirety based on the finding that adequate and appropriate provisions for the preservation and protection of the functions of creeks and streams are provided through the City's critical areas regulations (Lakewood Municipal Code Section 14A.142 et seq.) and the City's Shoreline Master Program as herein amended.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

Section 1. The City Council hereby adopts the City of Lakewood Shoreline Master Program ("SMP") dated May 6, 2014, which incorporates the required and recommended changes noted by the Department of Ecology, a copy of which is attached to this ordinance as an exhibit and incorporated herein by this reference. A copy of said plan shall be on file in the office of the City Clerk for public use and copies of this ordinance, together with copies of the Shoreline Master Plan, shall be distributed and filed as required by law. In the event of a conflict between the SMP, and any provision of Title 14 or 14A of the Lakewood Municipal Code, the SMP shall control.

Section 2. That Section 14A.142.040 of the Lakewood Municipal Code, entitled “Applicability and Mapping” be amended to read as follows:

A. Applicability.

This Title shall apply to all lands, land uses and development activity in the City which are designated as Critical Areas or Natural Resource Lands by the City, including wetlands. Properties containing critical areas or natural resource lands are subject to this Title. When the requirements of this Title are more stringent than those of other City codes and regulations, the requirements of this Title shall apply.

Where a site contains two or more critical areas, the site shall meet the minimum standards and requirements for each identified critical area as set forth in this Title.

Critical areas on lands subject to the Washington State Shoreline Management Act (SMA) and regulated by the City’s shoreline management regulations shall be regulated under the shoreline provisions and are not subject to the procedural and substantive requirements of this Title. Nothing in this section, however, is intended to limit or change the quality of information to be applied in protecting critical areas within shorelines of the state. Shorelines of the state shall not be considered critical areas under this Title except to the extent that specific areas located within such shorelines qualify for critical area designation based on the definition of critical areas provided by RCW 36.70A.030(5) and have been designated as such by the City’s critical areas regulations.

If the City's shoreline regulations do not include land necessary for buffers for critical areas that occur within shoreline areas, then the City shall continue to regulate those critical areas and their required buffers pursuant to this Title.

B. Mapping.

Maps may be developed and maintained by the City which show the general location of critical areas for informational purposes. The actual presence of critical areas and the applicability of these regulations shall be determined by the classification criteria established for each critical area.

Section 3. That Section 18A.02.502 of the Lakewood Municipal Code, entitled “Process Types - Permits” be amended to read as follows:

Permit Process Types. Permit applications for review pursuant to this section shall be classified as a Process I, Process II, Process III, or Process IV action. Process V actions are legislative in nature. Permit applications and decisions are categorized by process type as set forth in Table 3. The differences between the processes are generally associated with the different nature of the decisions and the decision-making body as described below.

**TABLE 3: APPLICATION PROCESSING PROCEDURES**

|                             | <b>Process I<br/>Administrative<br/>Action</b>   | <b>Process II<br/>Administrative<br/>Action</b>  | <b>Process III<br/>Hearing Action</b>   | <b>Process IV<br/>Hearing Action</b>  | <b>Process V<br/>Legislative<br/>Action</b>  |
|-----------------------------|--|--|---|---|--|
| <b>Permits</b>              | Zoning certification; Building permit; Design Review; Sign permit; Temporary Sign permit; Accessory Living Quarters; Limited Home Occupation; Temporary Use; Manufactured or Mobile Home permit; Boundary Line Adjustments; Minor modification of Process II and III permits; Final Site Certification; Certificate of Occupancy; ***Sexually Oriented Business extensions | Administrative Uses; Short Plat; SEPA; Home Occupation; Administrative Variance; Binding Site Plans, Minor Plat Amendment, Major modification of Process II permits; <u>Shoreline Conditional Use</u> ; <u>Shoreline Variance</u> ; <u>Shoreline Substantial Development Permits</u> ; | Conditional Use; Major Variance; Preliminary Plat; Major Plat Amendment; Major modification of Process III permits: Shoreline Conditional Use; Shoreline Variance; Shoreline Substantial Development Permit <u>when referred by the Shoreline Administrator</u> ; Public Facilities Master Plan | Zoning Map Amendments; Site-specific Comprehensive Plan map amendments; Specific Comprehensive Plan text amendments; Shoreline Redesignation, <b>**Final Plat**</b> ; <b>**Development Agreement**</b> <b>**No hearing required or recommendation made by Planning Advisory Board**</b> | Generalized or comprehensive ordinance text amendments; Area-wide map amendments; Annexation; Adoption of new planning-related ordinances; |
| <b>Impacts</b>              | Minimal or no effect on others, so issuance of permit is not dependent on others   | Application of the standards may require some knowledge of impacts and effect upon others  | Potential significant effect on some persons or broad impact on a number of persons   | Potential significant effect on some persons or broad impact on a number of persons   | Potential significant effect on some persons or broad impact on a number of persons  |
| <b>Notice &amp; Comment</b> | Participation of applicant only  | Nearby property owners invited to comment on an application  | In addition to applicant, others affected invited to present initial information  | In addition to applicant, others affected invited to present initial information  | Anyone invited to present information  |
| <b>Recommendation</b>       | NA   | NA   | Community Development Department Staff  | Planning Advisory Board, except for Final Plat and Development Agreement as noted <b>**</b> above   | Planning Advisory Board  |
| <b>Decision-Making Body</b> | Community Development Director   | Community Development Director   | Hearing Examiner  | City Council  | City Council   |
| <b>Appeal</b>               | Hearing Examiner   | Hearing Examiner   | Superior Court  | Superior Court  | Superior Court   |

|  |   |  |  |  |  |
|--|---|--|--|--|--|
|  | Community Development Director's decision on permits noted *** above is appealable to Superior Court. |  |  |  |  |
|--|---|--|--|--|--|

Section 4. Chapters 14.06, 14.10, 14.14, 14.18, 14.22, 14.26, 14.30, 14.34, 14.38, 14.42, 14.46, 14.50, 14.54, 14.58, 14.62, 14.66, 14.70, 14.74, 14.78, 14.82, 14.86, 14.90, 14.94, 14.98, 14.102, 14.106, 14.110, 14.114, 14.118, 14.122, 14.126, 14.130 and 14.134 of the Lakewood Municipal Code, and each Section contained therein, regarding Shoreline Use Regulations, be repealed in their entirety;

Section 5. Sections 18A.40.200, 18A.40.210, 18A.40.220, 18A.40.230, 18A.40.240, 18A.40.250 and 18A.40.260 of the Lakewood Municipal Code are repealed in their entirety.

Section 6. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 7. This ordinance shall take effect fourteen days following the date of a letter to the City of Lakewood from the Washington State Department of Ecology approving the SMP adopted by this ordinance.

ADOPTED by the City Council this 4th day of August, 2014.

CITY OF LAKEWOOD

\_\_\_\_\_  
Don Anderson, Mayor

Attest:

\_\_\_\_\_  
Alice M. Bush, MMC, City Clerk

Approved as to Form:

\_\_\_\_\_  
Heidi A. Wachter City Attorney

Ordinance \_\_\_\_  
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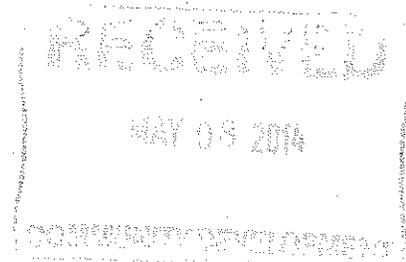
STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

May 6, 2014

The Honorable Don Anderson  
City of Lakewood  
6000 Main Street SW  
Lakewood, WA 89499-5027



**Re: City of Lakewood Comprehensive Shoreline Master Program Update –  
Conditional Approval, Resolution Number 2013-07**

Dear Mayor Anderson:

I would like to take this opportunity to commend the City of Lakewood (City) for its efforts in developing the proposed comprehensive Shoreline Master Program (SMP) update. It is obvious that a significant effort was invested in this update. The SMP will provide a framework to guide development and environmental protection in the City's shoreline areas.

As we have already discussed with your staff, the Washington State Department of Ecology (Ecology) has identified specific changes necessary to make the proposal approvable. These changes are detailed in Attachment B. Recommended changes are proposed in Attachment C. The findings and conclusions that support Ecology's decision are contained in Attachment A.

Pursuant to RCW 90.58.090 (2)(e), at this point the City may:

- Agree to the proposed changes (required and/or recommended changes), or
- Submit an alternative proposal. Ecology will then review the alternative(s) submitted for consistency with the purpose and intent of the changes originally developed by Ecology and with the Shoreline Management Act.

Final Ecology approval will occur when the City and Ecology agree on language that meets statutory and Guideline requirements.



The Honorable Don Anderson  
May 6, 2014  
Page 2

Please provide your written response within 30 days to the Director's Office at the following address:

WA State Department of Ecology  
Attention: Director's Office  
PO Box 47600  
Olympia, WA 98504-6700

Ecology appreciates the dedicated work that the City Council, City staff (Marc Amrine), the Planning Advisory Board, Parks Advisory Board, and the community have put into the Shoreline Master Program update; thank you again for your efforts.

We look forward to concluding the SMP update process in the near future. If you have any questions or would like to discuss the changes identified by Ecology, please contact our Regional Planner, Chrissy Bailey, at [Chrissy.Bailey@ecy.wa.gov](mailto:Chrissy.Bailey@ecy.wa.gov)/(360) 407-0290.

Sincerely,



Maia D. Bellon  
Director

Enclosures (3)

By Certified Mail [7012 1010 0003 3028 2969]

cc: Marc Amrine, City of Lakewood  
Chrissy Bailey, Ecology  
Paula Ehlers, Ecology

**ATTACHMENT A: FINDINGS AND CONCLUSIONS  
COMPREHENSIVE UPDATE TO THE CITY OF LAKEWOOD  
SHORELINE MASTER PROGRAM**

SMP Submittal accepted November 22, 2013 - Resolution No. 2013-07  
Prepared by Chrissy Bailey on March 25, 2014

**Brief Description of Proposed Amendment:**

The City of Lakewood (City) has submitted to the Department of Ecology (Ecology) for review and approval a comprehensive update to its Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines (Guidelines) requirements. The updated master program submittal contains locally tailored shoreline management policies, regulations, environment designation maps and administrative provisions, as well as local ordinance #362 (Critical Areas and Natural Resource Lands regulations) which will be adopted by reference as part of the SMP. Additional reports, and supporting information and analyses as noted below, are included in the submittal.

The permit processing and administrative procedures, policies, and regulations in Title 18A of the Lakewood Municipal Code (LMC), as they may be modified in the SMP, are identified as elements of the City's updated SMP. These documents are loosely referenced in the SMP and are not being adopted by reference.

**FINDINGS OF FACT**

The record submitted by the City to Ecology as part of this SMP update, including Resolution No. 2013-07, reports, analyses and local approval materials, provides information supporting the need for the proposed amendment. The City of Lakewood currently manages shorelines under the Pierce County Shoreline Master Program, which the City adopted after incorporation in 1996.

According to the *Shoreline Analysis and Characterization Report* (AHBL, 2010) approximately 19.1 miles of shoreline within the City are classified as "Shorelines of the State" pursuant to RCW 90.58.030; 3.8 miles of stream shoreline along Chambers Creek and Clover Creek, and 15.3 miles of lake shoreline including Lake Steilacoom, Gravelly Lake, Lake Louise, Waughop Lake and portions of American Lake. Therefore, aquatic areas and adjacent upland areas generally within 200 feet of the shoreline edge in these locations are subject to compliance with the Shoreline Management Act (RCW 90.58). The City stated its intent to pre-designate those shoreline areas within its adopted Urban Growth Area (UGA) in accordance with WAC 173-26-150; however, the City did not follow all of the procedures applicable to a comprehensive update because these areas were not included in the defined study area in any of the background work<sup>1</sup>. Therefore, the City did not pre-designate those shoreline areas within its adopted UGA.

**Need for amendment.** The proposed amendment is needed to comply with the statutory deadline

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<sup>1</sup> The Shoreline Analysis states "The study area for this report includes all land currently within the City's existing shoreline jurisdiction (Figure 1, Appendix C)" and "American Lake shoreline areas outside Lakewood City limits are not included in this report". In order for the City to pre-designate areas with designations other than the default designation outlined in WAC 173-26-211(2)(e), such areas would have had to have been considered throughout the entire update process.

## ATTACHMENT A – FINDINGS AND CONCLUSIONS

requiring a comprehensive update to local Shoreline Master Programs pursuant to RCW 90.58.080. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26, as the SMP has never been comprehensively updated. This SMP update is also needed to address changes that have occurred along the City's shorelines over the past 18 years and to provide consistency between the updated SMP and the environmental protection and land use management policies and practices outlined in the City's Critical Areas and Natural Resource Lands ordinance and Comprehensive Plan. The update is also necessary to reflect current science regarding protection of shoreline resources. This comprehensive SMP update is intended to entirely replace the City's existing SMP.

The SMP update is also intended to reflect current shoreline conditions, as it is recognized that conditions can change over time (WAC 173-26-090). Changing local circumstances, new information, and improved data may refer to both physical/biological conditions as well as how shorelines and shorelands are currently being used.

Chapter 1 (C) of the City's SMP provides the following purpose statements:

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

### **Current Conditions Documented:**

Documentation of current shoreline conditions is vital to achieving the no net loss of shoreline ecological functions goal of the state SMP Guidelines (WAC 173-26-186). Pursuant to this requirement, AHBL and Otak, Inc., on behalf of the City of Lakewood, produced a Shoreline Analysis report, which included a Shoreline Inventory and Characterization, in October 2010. This report served as a basis for and informed development of the City's SMP, including environment designations, policies and use regulations.

The City's Shoreline Analysis Report provides a regional, ecosystem-wide profile as well as a shoreline segment-level analysis characterizing existing shoreline conditions. The document reflects current and anticipated future land uses and summarizes opportunities for preservation and restoration based on information gathered during the assessment.

Shoreline segments<sup>2</sup> were determined based on water body, the level of ecological function occurring on different stretches of shoreline through the City, as well as existing land uses and zoning. Current

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<sup>2</sup> See exhibit 1 to this attachment – note that segment 1C (wetland at game reserve) was later determined by the City to not likely be an associated wetland. Therefore, this segment is not referenced in or shown on future maps or SMP update products.

shoreline conditions are generally summarized as follows for shorelines within SMA jurisdiction in the City of Lakewood.

**Existing Shoreline Uses.** According to the City's *Shoreline Analysis Report*, land use around American Lake, Lake Steilacoom, Gravelly Lake, and Lake Louise consists primarily of residential single family development. A majority of these parcels include bank armoring, boat piers, and/or swim platforms. Clover Creek has a significant amount of single family housing that has encroached upon the stream buffer resulting in a narrowed, or in some cases, nonexistent riparian zone. There is a greater variety of land uses, including commercial uses, along the eastern portion of Clover Creek. Chambers Creek has some single family housing within shoreline jurisdiction along the north/south oriented segment. Some of the north/south oriented segment has been modified by individual homeowners. These modifications include channelizing the stream, armoring the bank with rocks, and eliminating or reducing the riparian vegetation. The east/west segment has little or no development in shoreline jurisdiction, and a significant portion is a park. Waughop Lake is fully contained within Fort Steilacoom Park, and does not have any homes or buildings built around it. However, it does have a paved trail that goes around the lake and is within the shoreline jurisdiction.

There are several areas providing public access to the City's shorelines, including parks or open spaces on American Lake, Gravelly Lake (Lakewold Gardens), Lake Steilacoom, Clover Creek and in the future, on Chambers Creek. The largest historical site in Lakewood's shoreline jurisdiction is Fort Steilacoom Park, where Waughop Lake is located. Other historic properties include Lakewold Gardens (Gravelly Lake), a private home on the southwest shore of Lake Steilacoom, and Thornewood Castle on American Lake. Facilities associated with the Tacoma Golf and Country Club (clubhouse, dock, swimming pool, lawn and gardens) occupy a small portion of the shoreline on American Lake.

The majority of roads located in shoreline jurisdiction in Lakewood are minor roads providing access for homes and to residential properties. There is a bridge that crosses Lake Steilacoom in approximately the middle of the lake, and a bridge at the north end of the lake at the mouth to Chambers Creek. There are a few arterials that cross either over or under Chambers Creek and Clover Creek, and Clover Creek crosses under Interstate 5.

**Shoreline Ecological Functions.** Shorelines in Lakewood have generally been characterized as moderately to highly impaired. Of the 14 shoreline sub-segments in Lakewood (7 segments, 4 of which have sub-segments), none were recognized as providing high levels of ecological function, and three were recognized as providing moderate to high levels of ecological function. A summary of all of the results is presented below.

During the qualitative assessment that resulted in the sub-segment rankings referenced above, ecological functions that were considered to determine impairment included hydrologic, vegetation, hyporheic, and habitat functions. Hydrologic functions were assessed by evaluating surface water flow, defined as the natural movement of water into lakes and through streams, the physical complexity of vegetation overhanging the lake shore, and the presence/absence of physical structures that influence water movement in/through the shoreline environments. Vegetation functions include an evaluation of the presence and condition of native vegetation within the shoreline zone in relation to its ability to filter sediments, influence water temperature, provide structure for wildlife use; provide food sources for wildlife; provide bank stabilization, and provide a source for large woody debris (LWD) recruitment. Hyporheic flow and shallow groundwater functional assessments focused on the extent of connectivity that remains between the shoreline water and streams in the immediate vicinity

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relative to influences on shallow groundwater and water quality. Also assessed was how shallow groundwater connectivity with lakes influences lake levels, water quality, and late summer recharge. Habitat functions assessed include the physical space and conditions for life histories of species using the area, and food production and delivery.

As a result of the qualitative assessment, each shoreline sub-segment was given a rating of low, low/moderate, moderate, moderate/high, or high. Following are the results for all of the shoreline sub-segments:

### **Chambers Creek - Segment 1A - Overall rating = Moderate**

Segment 1A consists of low density residential housing. Aerial photos indicate that portions of the riparian buffer have been left intact, providing a forested area with some houses/buildings interspersed.

### **Chambers Creek - Segment 1B - Overall rating = Moderate/High**

Segment 1B is the most natural condition segment in Lakewood's shoreline jurisdiction and has an intact riparian buffer that protects the stream banks from erosion as well as providing shade, habitat (in stream and on the banks), and water quality improvement.

### **Clover Creek – Segment 2 - Overall rating = Low/Moderate**

Clover Creek has been greatly compromised by development. Approximately half of this segment in the City of Lakewood is heavily compromised by commercial development, including the section that runs through a long culvert under I-5. The lower half of the segment located in the City has been built out with high density residential housing.

### **American Lake – Segment 3A - Overall rating = Low**

The residential segment of American Lake ranks low for overall functions. Shoreline modifications have the largest, overarching impact on the functions of the lake and shoreline. The shoreline modifications have impeded wave attenuation, organic matter recruitment, the ability of the shoreline to remove toxins, and compromised the functions provided by shallow groundwater.

### **American Lake – Segments 3B & 3C - Overall rating = Low/Moderate**

While the parks generally are in a more natural condition than the residential segment, they have still been altered and have moderate amounts of impervious surface, some shoreline modifications, and compacted soils, all of which compromised the ability to provide necessary shoreline functions.

### **American Lake – Segment 3D - Overall rating = Moderate**

Although Silcox Island has been moderately built out with residential structures and has some shoreline modifications, the island has mostly retained its forested canopy and has not had as much modification to the soil structure on the island.

### **American Lake – Segment 3E - Overall rating = Moderate/High**

The forested peninsula south of Silcox Island (Eagle Point) appears to have been left in a natural condition for many decades. It has a forested canopy that provides special habitat niches both in the canopy and on the lake edge. Because the lake has such a high amount of development, this parcel provides a high quality area among an otherwise developed area.

### **Lake Steilacoom – Segment 4A - Overall rating = Low/Moderate**

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The residential area of Lake Steilacoom is similar to that of the other lakes in Lakewood - high density residential housing surrounding the lakeshore. Like American Lake, the shoreline has been extensively armored, reducing the ability of the shoreline to perform many shoreline functions.

### **Lake Steilacoom** – Segment 4B - Overall rating = Low/Moderate

Edgewater Park is a small portion of the overall size of Lake Steilacoom and represents the same overall functions and scores. It does have the opportunity to provide organic matter, but again, in relation to the size of the lake, the segment provides similar functions as adjacent residential segments.

### **Gravelly Lake** – Segments 5A & 5B - Overall rating = Moderate

The residential segment of Gravelly Lake is fully developed with residential housing and armored shorelines, reducing the functions the shoreline is able to provide similar to the other constructed lake shorelines. Segment 5B was included in the functions with 5A because it is also built out, but is managed as a 10-acre garden open to the public. Therefore the functions are the same or similar, but its land use is different from the rest of the lake.

### **Lake Louise** – Segment 6 - Overall rating = Low

Lake Louise is completely surrounded by single family housing, boat docks, and armored shoreline. The functions performed by an intact shoreline have almost completely been modified or heavily compromised on Lake Louise.

### **Waughop Lake** – Segment 7 - Overall rating = Moderate/High

Waughop Lake has an intact shoreline and is able to provide nearly all of the functions of a normally functioning shoreline. The lake quality has suffered due to nearby development and land use, which would make this area an excellent candidate for restoration in the way of water quality improvement projects.

All of the lakes in Lakewood are mainly spring fed, and experience water level draw-downs during the summer months. An increase in development density in the watershed is assumed to have had impacts on the volume and quality of water entering lakes and streams. Lake Steilacoom was created in 1852 when a dam was constructed across Chambers Creek, resulting in the inundation of a wetland. The presence of the outlet dam has created a relatively stable lake water elevation and because it is managed, any floodplain of the lake has been virtually eliminated. Development in the watershed and the straightening and ditching of Clover Creek has increased peak flows and the velocity of the stream.

Background data and current aerial photographs document that the vast majority of the shorelines of Lakewood's four developed lakes have been armored with bulkheads of some type, and that nearly 75% of the single family residences have some type of on-water dock or swimming platform. Natural vegetation on the lake margin or overhanging the edges of the lake is significantly absent. The exceptions to this are the natural shoreline of Waughop Lake, the largely forested riparian zone of Chambers Creek, Silcox Island in American Lake, and the forested peninsula south of Silcox Island (Eagle Point). Other than Chambers Creek, this dense, urban center provides little habitat in the shoreline areas, and in general, what is present tends to be of low to moderate quality.

*Ecology finds that the City's Shoreline Analysis Report (2010) provides a sufficient assessment of existing shoreline conditions to adequately inform the SMP update process as well as provide a basis for future protection and restoration opportunities within the City's shoreline jurisdiction. The report appears to be consistent with Guidelines requirements of WAC 173-26-201 (3)(c) and (d).*

### **Shoreline Environment Designations:**

Assignment of Shoreline Environment Designations (SED) is a fundamental aspect of the SMP update. Each stretch of shoreline has characteristics distinguishing it from others and that can be used to identify the shoreline ecological functions occurring, or those that historically occurred there and have been altered over time. An SMP update must consider how lands have been and are being used, including a general distinction between presently developed areas and relatively undisturbed shoreline areas. The Shoreline Environment Designation criteria provided in WAC 173-26-211 serve as the primary determinant of how shoreline environment designation assignments are made, along with reference to zoning and other regulatory overlays.

The City has identified three of the six recommended environment designations from the SMP Guidelines (the Shoreline Residential, Natural, and Aquatic designations) as appropriate to manage future shoreline development within its shoreline jurisdictional area. The Shoreline Residential designation was applied to areas developed with or platted for residential use around the City's lakes, and the Natural designation was assigned to shoreline areas considered ecologically intact and relatively free of human influence. The Aquatic designation was assigned to areas waterward of the ordinary high water mark. Additionally, the City has chosen to utilize three alternative environment designations: Conservancy, Urban Park, and Urban Stream Protection. The Urban Stream Protection designation was created specifically for shorelands adjacent to Clover Creek, in an effort to provide for the range of uses not present in other jurisdictional shoreline areas and consistent with the underlying zoning.

Lands that in the locally adopted SMP were given Conservancy and Urban Park designations had originally been lumped together and designated Urban Conservancy in early drafts of the SMP. However as the process proceeded, it became clear that certain shoreline areas, particularly City parks with water dependent uses such as boat access, did not clearly fit in the Urban Conservancy designation. There was also considerable discussion during the local process regarding the appropriate designation for Waughop Lake, when considering its current level of ecological function as well as the future vision for the lake as expressed in the parks and recreation master plan.

In early 2012, the City split the Urban Conservancy designation into a Conservancy and an Urban Park designation. The Urban Park designation was applied to all public parks and public street ends on Lakewood's lakes, the private open space on American Lake (Eagle Point), and Lakewood Gardens on Gravelly Lake. The Conservancy designation was applied to the portion of Chambers Creek between Lake Steilacoom and the confluence with Leach Creek (approximately where the creek changes from a north/south orientation to an east/west orientation), the shorelands of Waughop Lake, and portions of the Oakbrook 4<sup>th</sup> Addition subdivision that fall within shoreline jurisdiction along the east/west oriented portion of Chambers Creek.

Subsequent to this division, conversations continued regarding Waughop Lake. The City's Planning Advisory Board (PAB) recommended retaining the Conservancy designation, while City staff and the Parks and Recreation Advisory Board (PRAB) supported the Urban Park designation. Their position was that the Urban Park designation accommodated ongoing activities, general public access, and implementation of the Parks and Recreation Master plan and the Legacy Plan at Fort Steilacoom Park in future years (Lakewood, 2013), while the Conservancy designation would make implementation of those plans potentially problematic. The City Council ultimately accepted staff and the PRAB's

recommendation when it passed Resolution No. 2013-07, applying the Urban Park designation to Waughop Lake.

The locally adopted SMP and accompanying environment designation map (“map”) contained conflicting information regarding the SEDs for various properties, including Springbrook Park on Clover Creek, Waughop Lake, the shoreline public street ends, and the portions of the Oakbrook 4<sup>th</sup> Addition subdivision that fall within shoreline jurisdiction. The map outlined that Springbrook Park on Clover Creek should have the Urban Park designation and not the Urban Stream Protection designation, which distinction was not made in the SMP text. The map showed that Waughop Lake should be designated Urban Park, which also was not outlined in the SMP text. The SMP text outlined that the shoreline public street ends were given the Urban Park designation, but these areas were not shown with that designation on the map. The portions of the Oakbrook 4<sup>th</sup> Addition subdivision that fall within shoreline jurisdiction were noted as having the Conservancy designation in the SMP text, but were not shown as such on the SMP map. Therefore, changes to address the conflicting information both on the map and in the text are Ecology required changes (**Attachment B**).

*Ecology finds that the City and the SMP record have sufficiently documented the basis for assigning Shoreline Environment Designations. Areas with moderately high function are protected with more restrictive environment designations. In the SMP each environment designation includes a purpose statement, application (designation) criteria, and management policies as required by WAC 173-26-211 (4)(a). Furthermore, designations within the SMP appear to be appropriately assigned with the required changes as outlined in Attachment B. Ecology finds that Waughop Lake could have fit into either environment designation the City considered; the City's decision to apply the Urban Park designation is rationalized and supported by discussion in the record.*

#### **Shoreline Use Conflicts and Preferred Uses:**

As part of the *Shoreline Analysis Report*, the City's consultant analyzed land use patterns to address the Guidelines requirement to project shoreline development trends and identify potential use conflicts to ensure preference is given to uses that are unique to or dependent upon a shoreline location (“water oriented” uses). Potential conflicts in this context are focused on competing planning priorities inherent in the overall SMA policy objectives, such as the preference for water-dependent uses and for ecological protection. This may also encompass conflicts between SMA policy interests and other interests or regulatory requirements, like zoning or site design requirements, affecting shoreline resources.

Within the City of Lakewood, shoreline areas are mostly built out. A majority of the parcels in shoreline jurisdiction are developed; remaining parcels that could be developed or additions to existing structures would not change the nature of the water bodies. Many larger tracts of land within shoreline jurisdiction are zoned open space and there is public access to all of the shoreline water bodies except for one (Lake Louise). As previously outlined, Lakewood's shoreline jurisdiction is predominantly characterized by single family residences; few areas allowing commercial uses exist. Some new residential development and redevelopment are anticipated along lake shorelines in Lakewood, which the SMP would require be designed and developed consistent with the control of pollution and prevention of damage to the natural environment and to maintain ecological function. When constructed in such a way, single family residences are considered an SMA-preferred use.

Development within segment 1B of Chambers Creek (Chambers Creek Park) would provide future access to the shoreline in this area. Development of the park is proposed to include limited improvements and the area will mostly remain in its natural state. It is recognized that unlimited development or access in this segment would have the potential to result in degradation of the surrounding environment.

Public access and new development or redevelopment of existing lower intensity uses along Clover Creek to higher intensity uses could result in increased impervious areas or removal of vegetation. Low impact development techniques are encouraged whenever feasible, and new development or redevelopment within shoreline jurisdiction would be required to comply with impervious surface and vegetation conservation standards in the SMP. Based on the existing land use patterns and zoning, commercial development is likely to occur, but such development or redevelopment is not likely to be water-oriented in nature.

Development of City-owned properties such as parks or street ends on city lakes would provide public access but also potentially result in the removal of vegetation, shoreline stabilization, impervious surfaces and further impairment of water quality. Low impact development techniques, more natural landscape management, softer shoreline erosion control measures and revegetation could all be considered to help mitigate these potential impacts. The SMP recognizes that existing high quality vegetation and habitat should be protected in these areas.

In summary, there are few land use changes likely within shoreline jurisdiction. In limited areas where development or redevelopment may occur, the SMP has been drafted in such a way so as to give priority to water oriented uses and other SMA-preferred uses, where they are likely to occur. In areas where public access objectives could potentially conflict with the protection of ecological functions, appropriate shoreline environment designations and development standards have been crafted to avoid conflicts.

*Ecology finds that the City has adequately considered SMA preferred uses and the potential for use conflicts consistent with WAC 173-26-201 (2)(d) and WAC 173-26-201 (3)(d)(ii).*

### **Shoreline Modifications:**

Pursuant to WAC 173-26-231, “*Shoreline modifications are generally related to construction of physical elements such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal.*” WAC 173-26-231 (2)(b) states as a general principle that Master Programs shall “*reduce the adverse effects of shoreline modifications, and, as much as possible, limit shoreline modifications in number and extent.*” These principles are reinforced through associated mitigation sequencing [WAC 173-26-201 (2)(e)(i)] and no net loss [WAC 173-26-186] requirements of the SMP Guidelines.

The City’s *Shoreline Analysis Report* documents the presence of various shoreline modifications in and along the City’s SMA lakes and streams. Housing construction since the mid 1900’s in shoreline jurisdiction has resulted in most shoreline areas being completely built out. The only exceptions are Waughop Lake within Fort Steilacoom Park and portions of Chambers Creek. Housing construction resulted in heavy shoreline modifications in the way of bulkheads, docks, the compaction of adjacent land for the construction of houses, decks and patios and the installation of lawns and gardens.

Information about shoreline modifications in Lakewood was derived from interpretation of aerial photographs. Known shoreline modifications on and around American Lake, Gravelly Lake, Lake Steilacoom and Lake Louise include significant bulkheading around the perimeter shoreline, docks, and boat lifts. To a lesser extent, there are boathouses over the lakes. Waughop Lake appears to have little or no shoreline bulkheading. Another notable modification is the bridge that crosses the middle of Lake Steilacoom. The percentage of parcels having artificially armored shorelines ranges from 34% on Gravelly Lake to approximately 66% on American Lake. The table below summarizes shoreline modifications by lake in Lakewood (AHBL, 2010):

| Water body      | Segment | Percent Armoring by Segment | Percent Armoring by Water body | Percentage of Parcels with Docks by Segment | Percent of Parcels with Docks by Water body |
|-----------------|---------|-----------------------------|--------------------------------|---|---|
| American Lake   | 3A      | 62                          | 66                             | 90  | 92  |
|                 | 3B      | 35                          |                                | 100   |   |
|                 | 3C      | 100                         |                                | 0   |   |
|                 | 3D      | 38                          |                                | 100   |   |
|                 | 3E      | 30                          |                                | 66  |   |
| Lake Steilacoom | 4A      | 64                          | 62                             | 79  | 77  |
|                 | 4B      | 0                           |                                | 0   |   |
| Gravelly Lake   | 5A      | 36                          | 34                             | 86  | 85  |
|                 | 5B      | 0                           |                                | 0   |   |
| Lake Louise     | 6       | 72                          | 72                             | 51  | 51  |
| Waughop Lake    | 7       | 0                           | 0                              | 0   | 4   |

Known shoreline modifications on Clover Creek include channel straightening, armoring along the banks, and portions of the Creek that have been placed in pipes and culverts. The longest segment of the Creek in a pipe in shoreline jurisdiction is the point where the creek is located beneath I-5. The longest piped segment is outside of the City’s shoreline jurisdiction, and is located on McChord Air Force Base (now JBLM), where there are twin 12-foot diameter corrugated metal pipe culverts that run beneath the airport runways for a distance of 2,500 feet each. There are several other locations where the creek crosses under roadways both in pipes and in a modified channel. In several areas (particularly neighborhoods) there are sections of the stream that have been channelized or ditched between parcels.

Chambers Creek has experienced fewer modifications. One road (Steilacoom Boulevard) crosses the creek where it outlets from Lake Steilacoom. Portions of the stream are down in a steep ravine. Along the residential segment, some property owners have modified the bank by removing vegetation and placing stabilization such as rock.

According to the City’s *Cumulative Impacts Analysis (CIA)*, the most common development activity in the City of Lakewood has been pier construction; 51 permits were issued for pier construction or replacement between 1996 and 2009. The consultant’s review of permitting data indicates that the City has granted very few permits for bulkhead modifications, which is somewhat unexpected, given the large number of properties in the city with shoreline armoring (AHBL, 2013). The CIA projects new overwater structures on American Lake, Lake Steilacoom, Gravelly Lake, Lake Louise and one new City-owned public access pier on Waughop Lake. Additionally, pedestrian bridges in park areas adjacent to shoreline creeks may occur with future public access efforts.

With regard to nearshore development activities (development activities at the land/water interface, typically consisting of shoreline stabilization and vegetation clearing), the CIA states that very little nearshore development is anticipated to occur along Chambers Creek or Clover Creek. Currently adopted stream buffers prevent buildings from being constructed close enough to the creek to require shoreline stabilization, so no bulkheading or stream channelization is anticipated to be required. Nearshore development in lakefront portions of shoreline jurisdiction is anticipated to consist of shoreline modification and stabilization measures associated with upland residential development. These modifications may include installation or expansion of shoreline stabilization structures that could adversely affect hydrologic, vegetation, hyporheic, and habitat resources.

Relative to shoreline modifications, the City's SMP would ensure no net loss of ecological function from upland development by requiring compliance with specific standards. Chapter 5 of the SMP contains standards that restrict the use of shoreline modifications, including installation of shoreline stabilization, clearing, grading, dredging, and fill, for example:

- Clearing, grading, filling, and alteration of any natural drainage features are limited to the minimum necessary for development.
- The SMP places strict limits on new structural stabilization measures, as well as the repair or replacement of existing structures. Bioengineered shoreline protection measures are the preferred means of erosion prevention, and structural solutions shall only be allowed where it can be demonstrated that such methods are necessary.
- New structural stabilization measures on developed lots shall only be allowed to protect an existing structure.
- Applicants must demonstrate a need for armoring in the form a geotechnical report that confirms the existing structure will be damaged within 3 years due to shoreline erosion, and must also show that non-structural stabilization measures are infeasible or would not provide adequate protection to prevent damage to the property.
- New development, including land subdivision, must be located and designed to minimize the need for shoreline stabilization, and new non-water dependent uses shall be prohibited from constructing stabilization that would cause significant impacts to adjacent or downstream properties.
- The proposed SMP would allow for minor repairs of existing armoring, but as existing stabilization structures fail over time, replacement will result in the conversion of many properties that currently use hard structural protection methods to softer protection measures.

Chapter 5 of the SMP also contains standards specific to overwater uses and development, for example:

- Piers, docks, and recreational floats are permitted uses in the Shoreline Residential and Urban Park environments. Piers and docks are prohibited in the Natural and Conservancy environments.
- Components of overwater structures that contact the water shall be free of toxic substances that may contaminate lakes.
- On Lake Steilacoom, all recreational floats shall be grated to allow passage of light to the water, thus reducing impacts on growth and behavior of aquatic organisms.
- All reconstructed, repaired, or modified overwater structures must provide mitigation to ensure no net loss of ecological function.

- The size of new docks and piers is restricted to limit impacts on aquatic organisms and ecological processes. As existing docks and piers age, replacement structures will be required to comply with the size limits, which will result in a decrease in overwater coverage over time.

As outlined above, the most common shoreline modifications in Lakewood are generally piers bulkheads. While the City’s SMP addresses these types of modification, some changes to the SMP language were required so the SMP would conform to the SMP Guidelines. These changes included correcting internal conflicts in the document with regard to where piers and docks and launch rails may be authorized, clarifying the difference between hard and soft structural shoreline stabilization measures, clarifying there are two separate levels of analysis necessary to justify shoreline stabilization (first, *if* shoreline stabilization is necessary and second, *when* hard armoring may be authorized over soft stabilization measures), what constitutes natural processes with regard to justifying need for shoreline stabilization, and clarification that docks and piers are intended to be moorage facilities and cannot include decks, storage facilities, etc.

*Contingent on the City accepting the required changes listed in Attachment B, Ecology finds that the City’s Shoreline Modification standards are consistent with mitigation sequencing principles provided for in WAC 173-26-201 (2)(e) and provisions relating to shoreline modifications in WAC 173-26-231. Further, the City’s Cumulative Impact Assessment has identified and analyzed the updated development standards and regulations relating to shoreline modifications authorized through the updated SMP; Ecology finds that the Program is consistent with the no net loss policy goal of the SMP Guidelines.*

**Cumulative Impact Analysis:**

Upon local adoption of the recommended draft SMP in May 2013, the City’s consultant updated the *Cumulative Impacts Analysis* (CIA) for the Lakewood SMP, intended to consider cumulative impacts of reasonably foreseeable future development or redevelopment allowed by the updated SMP. Due to current and proposed regulations and the extensively developed nature of most shoreline areas, it is assumed that properties with significant redevelopment potential are concentrated in the multi-family and commercially zoned portions of Clover Creek, as well as on American Lake. The majority of shoreline areas are likely to see relatively slow and incremental changes associated with on-going uses, as well as redevelopment and expansion of existing uses.

Reasonably foreseeable development in the shoreline area was assessed using several data sources. Based on that review, the following development types were identified as potentially occurring in the future. Information is organized by shoreline segment (AHBL, 2013):

**Summary of Reasonably Foreseeable Land Use Changes by Water Body**

| Inventory Segment         | Redevelopment of Developed Lots  | Development of Existing Vacant Lots                                   | Potential New Lots from Subdivision   | Total Potential New Dwelling Units  | New Overwater Structures |
|---------------------------|--|---|---|---|--------------------------|
| Segment 1: Chambers Creek | <ul style="list-style-type: none"> <li>• Up to 10 multi-family dwelling units</li> </ul> | <ul style="list-style-type: none"> <li>• 10 new residences</li> </ul> | <ul style="list-style-type: none"> <li>• 3 lots subdivided to create 5 new waterfront lots</li> </ul> | <ul style="list-style-type: none"> <li>• 25 total new dwelling units</li> </ul> | None                     |

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| Inventory Segment          | Redevelopment of Developed Lots   | Development of Existing Vacant Lots   | Potential New Lots from Subdivision  | Total Potential New Dwelling Units  | New Overwater Structures   |
|----------------------------|---|---|--|---|--|
| Segment 2: Clover Creek    | <ul style="list-style-type: none"> <li>Up to 55 new multi-family dwelling units</li> <li>Up to 0.92 acre of new commercial development</li> </ul>                       | <ul style="list-style-type: none"> <li>6 new residences</li> </ul>                                  | <ul style="list-style-type: none"> <li>2 lots subdivided to create 2 new waterfront lots</li> </ul>                              | <ul style="list-style-type: none"> <li>63 total new dwelling units</li> </ul> | None   |
| Segment 3: American Lake   | <ul style="list-style-type: none"> <li>Incremental renovation and expansion of existing single-family uses</li> </ul>   | <ul style="list-style-type: none"> <li>16 new residences</li> </ul>                                 | <ul style="list-style-type: none"> <li>10 lots (9 developed and 1 vacant) subdivided to create 16 new waterfront lots</li> </ul> | <ul style="list-style-type: none"> <li>32 total new dwelling units</li> </ul> | <ul style="list-style-type: none"> <li>1 City-owned public access pier</li> <li>1 private joint-use dock/pier</li> <li>20 private, single-use docks/piers</li> </ul> |
| Segment 4: Lake Steilacoom | <ul style="list-style-type: none"> <li>Up to 19 new multi-family dwelling units</li> <li>Incremental renovation and expansion of existing single-family uses</li> </ul> | <ul style="list-style-type: none"> <li>6 new residences</li> </ul>                                  | <ul style="list-style-type: none"> <li>10 lots (8 developed and 2 vacant) subdivided to create 17 new waterfront lots</li> </ul> | <ul style="list-style-type: none"> <li>42 total new dwelling units</li> </ul> | <ul style="list-style-type: none"> <li>1 City-owned public access pier</li> <li>1 private joint-use dock/pier</li> <li>37 private, single-use docks/piers</li> </ul> |
| Segment 5: Gravelly Lake   | <ul style="list-style-type: none"> <li>Incremental renovation and expansion of existing single-family uses</li> </ul>   | <ul style="list-style-type: none"> <li>2 new residences (one without shoreline frontage)</li> </ul> | <ul style="list-style-type: none"> <li>5 lots subdivided to create 17 new waterfront lots</li> </ul>                             | <ul style="list-style-type: none"> <li>19 total new dwelling units</li> </ul> | <ul style="list-style-type: none"> <li>9 single-use docks/piers</li> </ul>   |
| Segment 6: Lake Louise     | <ul style="list-style-type: none"> <li>Incremental renovation and expansion of existing single-family uses</li> </ul>   | <ul style="list-style-type: none"> <li>3 new residences (none with lake frontage)</li> </ul>        | <ul style="list-style-type: none"> <li>1 developed lot subdivided to create 1 new waterfront lot</li> </ul>                      | <ul style="list-style-type: none"> <li>4 total new dwelling units</li> </ul>  | <ul style="list-style-type: none"> <li>34 single-use docks/piers</li> </ul>  |
| Segment 7: Waughop Lake    | None  | None  | None   | None  | <ul style="list-style-type: none"> <li>1 new City-owned public access pier as part of planned park improvements</li> </ul>   |

The CIA recognizes that in general, shoreline development has the potential to affect ecological functions in various ways. For example, streams convey water and sediment from surface runoff, wetlands, or lakes to other water bodies. Upland areas adjacent to streams that have large areas of impervious cover or that have been extensively cleared of vegetation provide less opportunity for water infiltration and can increase the amount of surface runoff collected by the stream, increasing flows to downstream water bodies. The CIA examined potentially impacted processes and ecological functions relative to the specific types of reasonably foreseeable development activities in Lakewood. The following summary identifies the anticipated resources at risk:

#### Upland Development Activities

Upland development is anticipated to consist of new and expanded residential and commercial development, leading to a potential increase in impervious surface area and clearing of vegetation above the OHWM. These development activities have the potential to impact hydrologic, vegetation, and habitat resources negatively. Upland development activities have the potential to impact the following ecological processes and functions associated with streams:

- Recruitment of large woody debris and organic material;
- Improvement of water quality;
- Sediment removal and bank stabilization;
- Physical habitat space and conditions for life history; and
- Wildlife food production and delivery.

Upland development activities also have the potential to impact the following ecological processes and functions associated with lakes:

- Water and sediment storage;
- Removal of excess nutrients and toxic compounds;
- Recruitment of large woody debris and organic material;
- Improvement of water quality;
- Sediment removal and bank stabilization;
- Physical habitat space and conditions for life history; and
- Wildlife food production and delivery.

#### Nearshore Development Activities

Nearshore development consists of construction activities performed at the interface between a water body and its adjacent upland areas. Development activities at the land/water interface typically consist of shoreline stabilization and vegetation clearing.

#### **Streams**

Very little nearshore development is anticipated to occur along Chambers Creek or Clover Creek. Currently adopted stream buffers prevent buildings from being constructed close enough to the creek to require shoreline stabilization, so no bulkheading or stream channelization is anticipated to be required.

### **Lakes**

Near-shore development in lakefront portions of the shoreline jurisdiction is anticipated to consist of shoreline modification and stabilization measures associated with upland residential development. These modifications may include installation or expansion of shoreline stabilization structures that could adversely affect hydrologic, vegetation, hyporheic, and habitat resources. Specifically, nearshore development activities would impact the following ecological processes and functions associated with lakes:

- Attenuation of wave energy;
- Recruitment of large woody debris and organic material;
- Sediment removal and bank stabilization;
- Removal of excess nutrients and toxic compounds;
- Water storage;
- Vegetation support;
- Maintenance of base flows; and
- Physical habitat space and conditions for life history.

### Overwater Development Activities

#### **Streams**

The streams in Lakewood do not support recreational swimming or boating, so no new overwater structures are anticipated to be constructed on Chambers Creek or Clover Creek. There may be small, pedestrian footbridge(s) associated with development of trails for the Chambers Creek Park.

#### **Lakes**

Overwater development on lakes is anticipated to consist of the development of new docks or piers, as well as the gradual replacement and repair of existing overwater structures. Overwater development is anticipated to result in a net increase in overwater coverage. The presence of overwater structures can adversely affect hydrologic and aquatic habitat resources and would specifically impact the following ecological processes and functions:

- Attenuation of wave energy;
- Removal of excess nutrients and toxic compounds;
- Physical habitat space and conditions for life history; and
- Wildlife food production and delivery.

The level of overwater development anticipated in the shoreline jurisdiction varies by water body, as shown above.

As outlined in the previous section, there are a number of SMP provisions specific to shoreline modifications (generally addressing nearshore and overwater development activities) that are intended to limit the type, number and extent of shoreline modifications so as to achieve the no net loss of shoreline ecological functions standard. Additionally, the CIA finds that the SMP would ensure no net loss of ecological function from upland development by requiring compliance with standards such as maximum impervious surface standards, minimum shoreline setback requirements, minimum lot frontages, stormwater treatment and control standards, vegetation conservation standards, and connection of development to sanitary sewer.

The City's CIA finds that the regulations in the proposed SMP address stormwater, hydrology, and water quality in shoreline jurisdiction, as well as preventing degradation of ecological functions relative to existing conditions. Any project within shoreline jurisdiction that introduces negative impacts is required to include mitigation measures and return ecological function back to baseline conditions at a minimum. The SMP assures no net loss of ecological function through a number of measures including those outlined above. In addition, the proposed SMP includes critical area regulations that protect steep slopes, wetlands, streams, and their buffers as well as vegetation conservation regulations.

The proposed SMP requires that shoreline development fully mitigate impacts caused by such development. Although not required to improve conditions over and above the impacts of their development action, a development proponent may elect to conduct restoration with mitigation for shoreline development, if appropriate. Implementation of portions of the *Shoreline Restoration Plan* irrespective of proposed development activity and as part of future capital improvement plans will help ensure conditions improve over time while achieving no net loss and the overall goal of improving shoreline functions. The combination of regulations, mitigation, and restoration help provide a high margin of error, ensuring no net loss over the long-term.

The City has also included shoreline restoration incentives in the SMP. These incentives are voluntary and if taken advantage of, allow a development proponent to reduce the standard buffer or setback from a water body to a minimum setback or buffer when specific options are utilized to restore or improve the function of the specific water body.

*Contingent on the City accepting the required changes listed in Attachment B, Ecology finds that the City's Cumulative Impact Assessment provides an adequate and accurate examination of anticipated development and potential effects to shoreline ecological functions. This finding is based on review and analysis of existing shoreline characteristics, anticipated future development, redevelopment, and use, new shoreline environment designations and regulations, development standards such as setback and nonconforming use and structure provisions, and shoreline stabilization standards, which have been demonstrated within the Cumulative Impacts Assessment to satisfy the no net loss of shoreline ecological function requirement as provided by the SMP Guidelines.*

#### **Restoration Plan:**

Pursuant to WAC 173-26-201 (2)(c), "Master programs shall also include policies that promote restoration of ecological functions, as provided in WAC 173-26-201 (2)(f), where such functions are found to have been impaired based on an Inventory and Characterization as described in WAC 173-26-201 (3)(d)(i)".

It is intended that local government, through the master program, along with other regulatory and non-regulatory programs, contribute to restoration by planning for and fostering restoration and that such restoration occur through a combination of public and private programs and actions. Local governments should identify restoration opportunities through the shoreline inventory process and authorize, coordinate and facilitate appropriate publicly and privately initiated restoration projects within their master program. The goal of this effort is to produce master programs that include planning elements which, when implemented, serve to improve the overall condition of habitat and resources within the shoreline area of each city and county.

The City conducted restoration planning actions consistent with the requirements of the SMP Guidelines and its consultant produced a *Shoreline Restoration Plan* (June 2013). The plan builds on information gathered through the shoreline inventory, characterization and analysis process as well as restoration goals and objectives in the City's Comprehensive Plan and policy guidance from the Chambers-Clover Creek Watershed Council towards implementation of the Chambers-Clover Creek Watershed Action Plan. The *Shoreline Restoration Plan* contains a summary of restoration opportunities at the shoreline segment scale, includes restoration goals and objectives, provides implementation targets and monitoring methods, and identifies restoration priorities and constraints.

*Ecology finds that the City's Restoration Plan is based on appropriate technical information available during the SMP update. The Restoration Plan will serve as an effective tool for the City, non-profit organizations and the public to guide individual or collective improvements to shoreline conditions over time. Such restoration efforts are understood to help achieve the no-net-loss goal of the SMP Guidelines (WAC 173-26-186).*

#### **Amendment History, Review Process:**

The City initiated the comprehensive SMP update by entering into a grant agreement with the Department of Ecology in September 2009. The record shows that the City held an SMP kick-off meeting on May 18, 2010, followed by meetings in July and August 2010 focused on individual water bodies, to solicit comments and concerns from the public prior to creation of the Shoreline Analysis report. The City also held two public meetings in January 2011 for discussion of the preliminary draft SMP, and a public hearing before the Planning Advisory Board (PAB) on November 9, 2011. The City notified the public of the hearing via a Notice of Public Hearing, which was sent to the Tacoma News Tribune for publication on October 25, 2011, posted on the City's website, and sent to the interested parties distribution list.

In addition to this information, the City's submittal to Ecology provides more detailed information regarding the City's deliberations and communication and outreach efforts. Submitted materials generally include summaries of public input at various stages of the update in meeting minutes, meeting and hearing agendas, minutes, staff reports and presentations from meetings where the SMP was discussed, SEPA documents, published, posted and mailed notices, correspondence with State agencies and Tribes, individuals, and other interested parties. With passage of Resolution No. 2013-07 on May 20, 2013, the City authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendment was received by Ecology for state review on July 10, 2013, and after a request for additional information was accepted as complete on November 22, 2013. Notice of the state comment period was distributed to 190 state task force members and local interested parties identified by the City on December 10, 2013, in compliance with the requirements of WAC 173-26-120. The state comment period began on December 13, 2013 and continued through January 15, 2014. In accordance with Ecology's discretion under WAC 173-26-120 (4), a public hearing was not conducted as part of the state comment period. Ecology received no written comments during the state comment period.

*Ecology finds that City and its consultant(s) sufficiently engaged the public and interested parties in the SMP update process in accordance with WAC 173-26-100 and 110.*

**Consistency with Chapter 90.58 RCW:** The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The amendment was also reviewed for consistency with RCW 36.70A.480 as required by RCW 90.58.610. The record also contains evidence of compliance with SMA procedural requirements for amending SMPs contained in RCW 90.58.090(1) and (2).

**Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III):** The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251) as well as the definitions in 173-26-020. This included review of an SMP Submittal Checklist, which was completed by the City’s consultant.

*As described in Attachment B (Required Changes), a few revisions are required to ensure the City’s SMP is consistent with the SMP Guidelines. These amendments are generally focused on consistency with “Master Program Content” (WAC 173-26-191), “General Master Program Provisions” (WAC 173-26-221), “Shoreline Modifications” (WAC 173-26-231), and “Shoreline Uses” (WAC 173-26-241).*

*Therefore, Ecology finds that the proposed SMP as approved by the City under Resolution No. 2013-07 is not consistent with the applicable SMP Guideline requirements, as specifically identified within Attachment B (Required Changes). However, Ecology also finds that the SMP can be amended to ensure compliance with the SMP Guidelines through the City’s acceptance of “Required Changes” listed within Attachment B together with supporting rationale. Ecology has also identified “Recommended Changes” (Attachment C) to the SMP, for consideration by the City.*

**Consistency with SEPA Requirements:** The City submitted evidence of SEPA compliance in the form of a SEPA checklist, Determination of Non-Significance (DNS), and Notice of Issuance. Ecology’s Toxic Cleanup Program commented on the DNS, recommending the city consider adopting future policies related to the Tacoma Smelter Plume and include standard conditions of approval for future soil disturbance projects located in the shoreline jurisdiction.

**Other Studies or Analyses supporting the SMP update:** Ecology reviewed the following reports, studies, map portfolios and data prepared for the City in support of the SMP amendment:

- *Public Participation Plan*, prepared by AHBL and dated November 2009
- *Shoreline Analysis Report, Including Shoreline Inventory and Characterization for City of Lakewood Shorelines*, prepared by AHBL and Otak, Inc. and dated October 2010.
- *Cumulative Impacts Analysis*, prepared by AHBL and dated September 2013
- *Shoreline Restoration Plan*, prepared by AHBL and Otak, Inc. and dated June 2013, and
- *Final SMP Checklist*, prepared by AHBL on behalf of the City of Lakewood and dated September 6, 2013.

Ecology also received and reviewed City Ordinance No. 362, which constitutes the City’s Critical Areas and Natural Resource Lands (CANRL) ordinance and is being incorporated by reference, with revisions, into the SMP.

*Contingent on the City accepting the required changes listed in Attachment B, Ecology finds that the City’s CANRL ordinance, which will be incorporated by reference into the SMP with the appropriate exceptions and revisions, implements the principles and adheres to the provisions in the Guidelines*

*relating to critical areas (WAC 173-26-221 [2]). Therefore, the critical areas segment of the Master Program provides a level of protection that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources (WAC 173-26-221 [2][a][ii]).*

**Summary of Issues Raised During The Public Review Process:**

Ecology received no comments during the formal State review process.

The City's SMP update process included multiple public meetings and one hearing, as outlined above. A summary of issues commonly raised in these forums was compiled by the City in September 2013 (responsiveness summary). The responsiveness summary outlines modifications made to the original SMP drafts, some of which were made in response to comments received during the update process. Some of these changes included reduction in standard setbacks for non-water oriented structures, expanded maximum dock/pier lengths to respond to shallow lake depth concerns, and provisions relating to light penetration and materials used in the construction of overwater structures in salmon bearing water bodies.

The responsiveness summary also identified additional modifications that the City Council was asked to consider. One of the primary items related to the Shoreline Environment Designation for Waughop Lake, as was previously discussed. Additionally, the standards for nonconforming structures, uses and lots were simplified and a policy was established that will allow for the replacement of legally established nonconforming upland structures within specific timelines.

**CONCLUSIONS OF LAW**

After review by Ecology of the complete record submitted, Ecology concludes that the City's comprehensive SMP update proposal, subject to and including Ecology's required changes (itemized in **Attachment B**), is consistent with the policy and standards of RCW 90.58.020, RCW 90.58.090, RCW 36.70A.480 and the applicable SMP guidelines (WAC 173-26-171 through 251) as well as the definitions in WAC 173-26-020. This includes a conclusion that the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions should result from implementation of the new updated master program - WAC 173-26-201(2)(c).

Ecology concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in **Attachment C**) would be consistent with SMA policy and the Guidelines and would be beneficial to SMP implementation. These changes are not required, but if accepted by the City, can be included in Ecology's approved SMP amendment.

As stipulated in RCW 90.58.610, RCW 36.70A.480 governs the relationship between shoreline master programs and development regulations to protect critical areas that are adopted under chapter 36.70A RCW. Consistent with RCW 36.70A.480(4), Ecology concludes that the SMP provides a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

Ecology concludes that the City has chosen not to exercise its option pursuant to RCW 90.58.030(2)(d)(ii) to increase shoreline jurisdiction to include buffers for critical areas located within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical

## ATTACHMENT A – FINDINGS AND CONCLUSIONS

areas with buffers that extend beyond SMA jurisdiction the buffer shall continue to be regulated by the City's Critical Areas and Natural Resource Lands regulations.

Ecology concludes that subject to and including Ecology's required changes, those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy - RCW 90.58.090(5).

Ecology concludes that the City complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update process.

Ecology concludes that the City has complied with the purpose and intent of the local update process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the City's comprehensive SMP update submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring an SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

### DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP are consistent with the policy of the Shoreline Management Act, the applicable Guidelines and implementing rules, once required changes set forth in **Attachment B** are accepted by the City. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to all or part of the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final action.

### REFERENCES

AHBL and Otak, Inc. *Shoreline Analysis Report, Including Shoreline Inventory and Characterization for City of Lakewood Shorelines*. Prepared for City of Lakewood. Seattle, Washington. October 1, 2010.

ATTACHMENT A – FINDINGS AND CONCLUSIONS

AHBL and Otak, Inc. *Shoreline Restoration Plan Component*. Prepared for the City of Lakewood Shoreline Master Program Update. Seattle, Washington. June, 2013.

AHBL and City of Lakewood. *Cumulative Impacts Analysis Component*. Prepared for the City of Lakewood Shoreline Master Program Update. Seattle, WA. September 2013.

City of Lakewood. *Request for Council Action*. Submitted by Marc Amrine, Senior Planner and Dan Catron, Principle Planner. Lakewood, WA. May 2013.

City of Lakewood. *Responsiveness Summary*. Submitted by Marc Amrine, Senior Planner. Lakewood, WA. September 2013.

The following changes are required to comply with the SMA (RCW 90.58) and the SMP guidelines (WAC 173-26, Part III);

| ITEM | SMP PROVISION                           | TOPIC                                    | Bill Format Changes [ <u>underline</u> -additions; <del>strikethrough</del> -deletions]  | ECOLOGY - DISCUSSION/RATIONALE  |
|------|---|--|--|---|
| A    |   | Cover                                    | <del>City Council Draft</del>  | <i>This change is required to clarify the final version is not a draft, per WAC 173-26-191 (2)(a)(ii)(A) which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies.</i>  |
| B    |   | Document Header                          | <del>REVIEW DRAFT</del>  | <i>This change is required to clarify the final version is not a draft. WAC 173-26-191 (2)(a)(ii)(A).</i>   |
| C    |   | Document Footer                          | <del>November 20, 2012</del> and <del>December 5, 2012</del><br>and<br><del>City of Lakewood DRAFT SMP</del>   | <i>The first change is required to avoid multiple and inapplicable dates throughout the document.<br/>The second change is required to clarify the final version is not a draft. WAC 173-26-191 (2)(a)(ii)(A).</i>  |
| D    | Table of Contents<br>Page iii           | Appendices                               | <u>Appendices</u><br><br><u>A. Critical Areas and Natural Resource Lands and Flood Hazard Overlay Ordinances (Lakewood Municipal Code Titles 14A.142, 14A.146, 14A.150, 14A.154, 14A.158, 14A.162, 14A.165, and 18A.40), Ordinance No. 362 3(part), 2004 and Ordinance No. 264 1(part), 2001.</u>  | <i>This change is required so the critical areas and floodplain overlay ordinances being incorporated by reference are physically attached to and a part of the SMP. WAC 173-26-191 (2)(a)(ii)(A).</i>  |
| E    | Chapter 2 (E)<br>Page 7                 | Shoreline Areas not Mapped or Designated | Any undesignated <u>or unmapped</u> shorelines in the City and its Urban Growth Area are assigned automatically a Conservancy shoreline environment designation until the shoreline is re-designated through an amendment to the SMP. This includes any areas that are annexed into the City and fall within the City's shoreline jurisdiction, such as Camp Murray. <del>The only exception to this rule is that if the Camp Murray Beach Campground were annexed, it would be assigned the Urban Park shoreline environment designation.</del> | <i>The first change (insertion) is required for consistency with WAC 173-26-211(2)(e).<br/><br/>The second change (deletion) is required because the State can only approve pre-designations under WAC 173-26-150 "according to the procedures set forth in this chapter for amendment of a Shoreline Master Program". For those portions of Camp Murray outside of the City limits, the City did not follow all of procedures applicable to a comprehensive update because these areas were not included in the defined study area in any of the background work. For example, the Shoreline Analysis states "The study area for this report includes all land currently within the City's existing shoreline jurisdiction (Figure 1, Appendix C)" and "American Lake shoreline areas outside Lakewood City limits are not included in this report". In order for the City to pre-designate areas with designations other than the default designation outlined in WAC 173-26-211(2)(e), such areas would have had to have been considered throughout the entire update process.</i> |
| F    | Chapter 2 (F)<br>(2) (c) (1)<br>Page 10 | Urban-Stream Protection Designated Areas | 1) Description<br>The Urban - Stream Protection environment designation is assigned to areas that include Clover Creek between Lake Steilacoom and the City of Lakewood city limits, <u>except for the shorelands in Springbrook Park adjacent to Clover Creek.</u>  | <i>This change is required for internal consistency. Springbrook Park is shown as having the Urban Park designation on Figure 1 but was not excluded from the text in this section of the SMP. This change is required in accordance with WAC 173-26-191(2)(a)(ii)(A) and 173-26-211 (2).</i>   |
| G    | Chapter 2 (F)<br>(3) (c) (1)<br>Page 11 | Urban Park Designated Areas              | Urban Park environment areas include:<br>a. Shorelands in all public parks and public street ends located on lakes within the shoreline jurisdiction;  | <i>These changes are required for internal consistency. Lake Waughop and Springbrook Park are shown as having the Urban Park designation on Figure 1 but were left out of the text in this section of the SMP. This change is required in accordance with WAC 173-26-</i>   |

| ITEM | SMP PROVISION                               | TOPIC                                   | Bill Format Changes [ <u>underline</u> -additions; <del>strikethrough</del> -deletions]  | ECOLOGY - DISCUSSION/RATIONALE   |
|------|---|---|--|--|
|      |   |   | <p>b. Eagle Point (a private subdivision open space tract on American Lake, Parcel # 4001800540); <del>and</del></p> <p>c. Lakewold Gardens (a private facility with public access on Gravelly Lake);</p> <p><u>d. Shorelands adjacent to Waughop Lake; and</u></p> <p><u>e. Shorelands in Springbrook Park adjacent to Clover Creek.</u></p>  | <p>191(2)(a)(ii)(A) and 173-26-211 (2).</p>  |
| H    | Chapter 2 (F)<br>(5) (d) (2) (e)<br>Page 16 | Natural Environment Management Policies | <p>2) The following new uses should be prohibited in the Natural environment:</p> <p>a. Commercial uses.</p> <p>b. Industrial uses.</p> <p>c. Non-water-oriented recreation, except the maintenance, repair, and limited expansion of existing facilities and uses.</p> <p>d. Roads, utility corridors, and parking areas that can be located outside of Natural environment designated shorelines.</p> <p>e. <u>Multi Family</u> Residential.</p> <p>f. Commercial forestry.</p> <p>g. Agricultural uses.</p> | <p><i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which states that Master Program regulations shall be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. This change is required for consistency between this management policy, residential development policies and regulations, and Table 1 (text pasted below, <u>emphasis added</u>). This management policy is the only part of the SMP that suggests single family residential development should be prohibited in the natural shoreline environment designation. The SMP Guidelines at WAC 173-26-211 (5)(a)(C) allow single family residential development as a conditional use in the natural environment if densities/intensities are limited appropriately.</i></p> <p><i>Residential Development: a) Residential development is preferred use under this SMP and is allowed where it can be accommodated without significant shoreline impacts. Residential development is prohibited in the Aquatic environment, and <u>single-family residential development is a conditional use in the Natural, Urban Park, and Conservancy environments.</u></i></p> <p><i>Table 1: Shoreline Use Table – residential single family uses/structures are a conditional use in the Natural designation, while multi-family is prohibited.</i></p> |
| I    | Chapter 2 (F)<br>(6) (c) (1)<br>Page 17     | Aquatic Designated Areas                | <p>1) Description</p> <p>Aquatic environment areas include all areas waterward of the OHWM as generally shown in Figure 1, <u>including areas waterward of the OHWM within Chambers Creek and Clover Creek,</u> as determined on a site-by-site basis.</p>   | <p><i>This change is required for consistency with 173-26-211 (2) and 173-26-211 (5) (c). Figure 1 illustrates the Aquatic designation within the OHWM of SMA lakes but does not clearly illustrate the same for SMA streams.</i></p>  |
| J    | Chapter 2 (F)<br>(6) (d) (5)<br>Page 17     | Aquatic Management Policies             | <p>5) Uses that adversely impact the ecological functions of identified critical freshwater habitats, should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in Chapter 3, Section B(4)(<u>c</u>)(3) of this SMP as necessary to assure no net loss of ecological functions.</p>  | <p><i>This change is required for internal consistency and to reference the correct, specific section of the SMP; WAC 173-26-191(2)(a)(ii)(A).</i></p>   |
| K    | Chapter 2 (F)<br>(6) (e)<br>Page 18         | Aquatic Regulations                     | <p><b>e) Regulations</b></p> <p>1) Shoreline Use: Permitted, conditional, and prohibited uses for the <u>Aquatic Shoreline Residential</u> environment are listed in Chapter 4, Specific Shoreline Use Policies and Regulations, and summarized in Table I of that Chapter.</p> <p>2) Development Standards: Shoreline related development standards for the <u>Aquatic Shoreline Residential</u> environment are summarized in Table II of Chapter 4.</p>   | <p><i>This change is required for internal consistency and to reference the correct environment designation section in which this text exists; WAC 173-26-191(2)(a)(ii)(A).</i></p>  |
| L    | Chapter 3 (B)<br>(2) (c) (4)                | Archaeology and Historic                | <p>4) In the event that unforeseen factors constituting an emergency as defined in <del>RCW 90.58.030</del> <u>WAC 173-27-040 (2)(d)</u> necessitate rapid action to retrieve, preserve, or protect</p>  | <p><i>This change is required in accordance with WAC 173-26-191(2)(a)(ii)(A), because the statute does not define emergency construction in this section. The definition of</i></p>  |

| ITEM | SMP PROVISION                        | TOPIC                        | Bill Format Changes [ <u>underline</u> -additions; <del>strikethrough</del> -deletions]  | ECOLOGY - DISCUSSION/RATIONALE   |
|------|--------------------------------------|------------------------------|--|--|
|      | Page 22                              | Resources Regulations        | property containing artifacts or data identified above from damage by the elements, the project may be exempted from the permit requirement. The City shall notify Ecology, the State Attorney General's Office, and the State Historic Preservation Office of such a waiver in a timely manner.   | <i>emergency construction as it relates to exemptions is contained in the WAC.</i>   |
| M    | Chapter 3 (B) (3)<br>Page 22         | Critical Areas               | Critical areas in shoreline jurisdiction are regulated by <a href="#">this SMP. As such</a> , the Critical Areas and Natural Resource Lands Regulations, Ordinance No. 362 3(part), 2004, codified under Chapter 14A of the LMC, <del>which</del> is herein incorporated into this SMP <a href="#">with the exceptions and modifications</a> <del>as</del> noted below.  | <i>This change clarifies that in accordance with WAC 173-26-221 (2)(a) and RCW 90.58.610, upon Department of Ecology approval of a shoreline master program or critical area segment of a shoreline master program, critical areas within shorelines of the state are protected under chapter 90.58 RCW.</i>   |
| N    | Chapter 3 (B) (3) (a) (3)<br>Page 23 | Critical Areas Applicability | <p>c. Provisions that include a “reasonable use determination” shall not apply within shoreline jurisdiction. Specifically, LMC Sections 14A.142.080 and 14A.142.090 do not apply. <a href="#">Such uses and developments require a variance in accordance with Chapter 6 of this SMP.</a></p> <p>d. Provisions relating to variance procedures and criteria do not apply in the shoreline jurisdiction. Specifically, LMC Section 14A.142.110, which references variance procedures in the LMC, does not apply. Variance procedures and criteria <a href="#">within shoreline jurisdiction</a> have been established in this SMP, Chapter 6 Section <del>6D</del> and in WAC 173-27-170.4.</p> <p>e. Provisions relating to nonconforming uses in LMC Section 14A.142.180 shall not apply. Please see Chapter 6, Section F for nonconforming development standards <a href="#">within shoreline jurisdiction</a>.</p> <p>f. Geologically Hazardous Areas. Provisions contained in LMC Section 14A.146.000 are hereby clarified and amended.</p> <p>i. New development and the creation of new lots through subdivision shall not be allowed when it would cause foreseeable risk from geological conditions to people or improvements during the life of the development.</p> <p>ii. New development that would require structural shoreline stabilization over the anticipated life of the development shall not be allowed, unless stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.</p> <p>iii. All shoreline stabilization shall comply with Chapter 5, Section C (<a href="#">1 and 2</a>).</p> <p><a href="#">g. Waughop Lake shall be subject to the setback requirements outlined in the SMP and not to the 35' buffer requirement in LMC Section 14A.154.060 (B).</a></p> <p><a href="#">Renumber following sections accordingly.</a></p> | <p><i>These changes are required for internal consistency, clarity, and to reference correct, specific sections of the SMP; WAC 173-26-191(2)(a)(ii)(A).</i></p> <p><i>This change (addition of item (g)) reflects comments given to the City on 7/25/2011.</i></p>  |
| O    | Chapter 3 (B) (3) (a) (3)<br>Page 24 | Critical Areas Applicability | <p><del>i.</del> Wetland Buffers. The following modifications to LMC Section 14A.162.080 shall apply.</p> <p>i. Buffer width averaging in LMC Section 14A.162.080(B)(1) shall be limited such that the buffer at its narrowest point is no less than 75% of the standard width.</p> <p>ii. Administrative buffer reductions allowed under LMC Section 14A.162.080(B)(2) shall be limited to 25% of the standard buffer width.</p>  | <i>This change is required in accordance with WAC 173-26-221 (2)(i)(D), which states that SMP wetland buffers shall be adequate to ensure that wetland functions are protected and maintained in the long term. The wetland buffers in the City's CANRL regulations for Category I wetlands are not consistent with what the Department's scientific literature shows is necessary to protect wetland functions. The gap between what the SMP prescribes and what scientific literature supports was not discussed or justified in the City's Cumulative Impacts Assessment. Lacking any discussion or justification, which has been</i> |

| ITEM | SMP PROVISION                               | TOPIC                           | Bill Format Changes [ <u>underline</u> -additions; <del>strikethrough</del> -deletions]  | ECOLOGY - DISCUSSION/RATIONALE   |
|------|---|---------------------------------|--|--|
|      |   |                                 | <p>iii. <u>Within shoreline jurisdiction, wetland buffers as outlined in LMC Section 14A.162.080 (A) for Category I wetlands shall not apply. Wetland buffers within shoreline jurisdiction for Category I wetlands shall be 300 feet.</u></p>   | <p><i>requested multiple times, this change is required.</i></p> <p><i>The numbering change reflects required change N above.</i></p> <p><i>These comments were given to the City in correspondence dated 7/20/2011, 9/15/2011, 11/9/2011 and 1/13/2012.</i></p>   |
| P    | Chapter 3 (B)<br>(3) (a) (3)<br>Page 24     | Critical Areas<br>Applicability | <p><del>o.</del> Channel Migration Zones (CMZ). Within the shoreline jurisdiction surrounding Chambers Creek, the Shoreline Administrator shall require a channel migration study when the City determines that a <u>shoreline use</u>, development <u>or modification</u> proposal has the potential to interfere with the process of channel migration. <u>Potential CMZ reaches are shown on map 12 of the Shoreline Analysis Report dated October 1, 2010.</u> The study shall include recommended measures (consistent with mitigation sequencing) that demonstrate how no net loss of ecological functions associated with channel migration will be achieved. The proposal must demonstrate how it will avoid affecting the CMZ through utilization of nonstructural flood hazard measures and avoid the need for future shoreline modifications and structural flood hazard measures.</p>  | <p><i>The changes to provision n are required in accordance with WAC 173-26-221 (3) (b) which requires that SMPs include provisions to limit development <u>and</u> modifications that would result in interference with the process of channel migration. Additionally, reference to the map showing potential CMZ reaches will enable users of the document to determine when this requirement applies.</i></p> <p><i>The numbering change reflects required change N above.</i></p>   |
| Q    | Chapter 3 (B)<br>(3) (a) (3)<br>Pages 24-26 | Critical Areas<br>Applicability | <p><del>o.</del> Flood Hazard Overlay. LMC Section 14A.158.030 incorporates the Flood Hazard Overlay provisions of LMC Section 18A.40.100 by reference. In addition to the standards contained therein, the following shall apply:</p> <p>vi. <del>Place a</del><u>New</u> structural flood hazard reduction measures <u>shall be placed</u> landward of <del>the</del> associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration, or as noted below. <del>if s</del><u>Such</u> flood hazard reduction projects <u>may</u> be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.</p> <p>vii. New structural public flood hazard reduction measures, such as dikes and levees, shall dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and immitigable significant ecological impacts, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.</p> <p>viii. The removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and with this <del>SMP chapter</del> and allowed only after a biological and geomorphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.</p> <p>ix. Structural flood hazard reduction measures shall be consistent with an adopted comprehensive flood hazard management plan approved by the <u>State authority</u> that evaluates cumulative impacts to the watershed system.</p> | <p><i>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies.</i></p> <p><i>The revisions to provision (vi) are required to clarify that these statements are requirements, and to replace confusing text/grammatical errors.</i></p> <p><i>The revisions to provisions (viii) and (ix) correct errors resulting from cutting and pasting WAC language into the SMP without appropriate modification.</i></p> <p><i>The numbering change reflects required change N above.</i></p> |

| ITEM | SMP PROVISION                                | TOPIC   | Bill Format Changes [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]   | ECOLOGY - DISCUSSION/RATIONALE   |
|------|--|---|---|--|
| R    | Chapter 3 (B)<br>(4)<br>Page 26              | Environmental Impacts and Mitigation Sequencing Applicability | A primary concern of the SMA is the environmental impact that <u>uses and</u> development may have on the fragile shorelines of the state. The following policies and regulations specify how environmental impacts <del>should</del> <u>shall</u> be addressed in project design, construction, and regulatory approval and apply to all uses, activities, and development, regardless of whether a permit is required.  | <i>These changes are required in accordance with WAC 173-26-201 (2)(e)(i), which outlines that master programs shall include provisions that require proposed individual uses and developments to analyze and mitigate for environmental impacts.</i>  |
| S    | Chapter 3 (B)<br>(5) (b) (13)<br>Page 29     | Public Access Policies  | Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and they should be designed for accessibility by handicapped and physically impaired persons. Auxiliary facilities should be located outside of the shoreline management area or near the outer edge of the shoreline management area if <del>possible</del> <u>feasible</u> .   | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. "Possible" is not defined in the SMP, while "feasible" is.</i>   |
| T    | Chapter 3 (B)<br>(5) (c) (1)<br>Page 30      | Public Access Regulations                                     | 1) Where the City has shown that a project would have an adverse impact on <u>existing</u> public access to the waters of the state <u>or create a new demand for public access</u> , provisions shall be made to mitigate the impact/ <u>meet the projected demand</u> and ensure that there is no net loss to public access resources or opportunities. Examples of impacts to shoreline access resources <u>or new demand</u> include, but are not limited to:   | <i>This change is required in accordance with WAC 173-26-221 (4)(d)(i), which requires that SMPs establish policies and regulations that <u>protect and enhance</u> both physical and public access. This provision currently mixes protection from impacts to existing access with situations under which the Guidelines require consideration of appropriate new access. These changes clarify that this regulation applies to both situations.<br/><br/>This comment was given to the City in correspondence dated 1/13/2012 and 5/15/2013.</i> |
| U    | Chapter 3 (B)<br>(5) (c) (2)<br>Page 30      | Public Access Regulations                                     | 2) The Community Development Director may authorize reasonable adjustments to development standards such as lot coverage, minimum lot width, setbacks, etc. in order to accommodate public access. <u>Such adjustments may require a variance in accordance with Chapter 6 (D)(1).</u>  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(iii)(B) and WAC 173-27-170.</i>  |
| V    | Chapter 3 (B)<br>(5) (c)<br>Page 31          | Public Access Regulations                                     | <u>15) The Administrator may waive the requirement for public access where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other applicable legal limitations. In determining infeasibility, the Administrator shall consider alternate methods of providing public access such as offsite improvements, viewing platforms, separation of uses and restricting hours for public access.</u> | <i>This change is required for clarity surrounding the circumstances under which the Shoreline Administrator can determine public access is infeasible (WAC 173-26-221 (4)(d)(iii)(B)).<br/><br/>This comment was given to the City in correspondence dated 1/13/2012 and 5/15/2013.</i>   |
| W    | Chapter 3 (B)<br>(6) (c)<br>Page 34          | Restoration SMA Restoration Policies                          | <u>14) Restoration projects may include shoreline modification actions such as vegetation modification, shoreline stabilization, dredging or filling in accordance with all applicable provisions in this SMP and provided the primary purpose of such actions is clearly restoration of natural character and ecological functions of the shoreline.</u>   | <i>This change is required in accordance with WAC 173-26-231 (3)(g).</i>   |
| X    | Chapter 3 (B)<br>(8) (b) (3)<br>Page 36      | Shoreline Vegetation Conservation Policies                    | 3) Adverse environmental and shoreline impacts of clearing and grading should be avoided wherever <del>possible</del> <u>feasible</u> through proper site planning, construction timing and practices, bank stabilization, soil bioengineering and use of erosion and drainage control methods. Maintenance of drainage controls should be a high priority to ensure continuing, effective protection of habitat and water quality.   | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. "Possible" is not defined in the SMP, while "feasible" is.</i>   |
| Y    | Chapter 3 (B)<br>(8) (b) (10) (b)<br>Page 37 | Shoreline Vegetation Conservation                             | b. Limit the amount of lawn and garden watering to avoid <del>no</del> surface runoff.  | <i>This change is required to correct a typographical error in accordance with WAC 173-26-191 (2)(a)(ii)(A). This portion of the Guidelines requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master</i>  |

| ITEM | SMP PROVISION                           | TOPIC  | Bill Format Changes [ <u>underline</u> -additions; <del>strikethrough</del> -deletions]   | ECOLOGY - DISCUSSION/RATIONALE   |
|------|---|--|---|--|
|      |   | Policies   |   | <i>program policies.</i>   |
| Z    | Chapter 3 (B)<br>(8) (c) (5)<br>Page 38 | Shoreline<br>Vegetation<br>Conservation<br>Regulations | 5) Properties within the <u>setbacks and</u> buffers of Chambers Creek, Clover Creek, and Waughop Lake shall maintain native vegetation in an undisturbed state.  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. According to Table II of the SMP, streams (Chambers/Clover Creek) are assigned buffers, while Urban Park-designated portions of lakes (Waughop) are assigned setbacks. This change recognizes that nuance and results in language that is more consistent with later provisions in this same subsection (#'s 6 and 8).</i> |
| AA   | Chapter 3 (B)<br>(8) (c) (8)<br>Page 38 | Shoreline<br>Vegetation<br>Conservation<br>Regulations | 8) Within all other shoreline areas, outside of setbacks and buffers, tree removal shall be limited to the minimum necessary to accommodate proposed structures and uses or to mitigate a hazard to life or property. Significant trees, <u>as defined in LMC Section 18A.50.320</u> , shall be replaced according to a tree replacement plan prepared by a qualified professional that demonstrates how no net loss will be achieved.  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. Significant tree is not defined in the SMP; this reference points the reader to the City municipal code where this term is defined.</i>  |
| BB   | Chapter 3 (B)<br>(8) (c) (8)<br>Page 38 | Shoreline<br>Vegetation<br>Conservation<br>Regulations | 9) The City shall require a shoreline vegetation management plan (SVMP) prepared by a qualified professional as part of any Substantial Development Permit that includes tree removal and land clearing. The City may require a SVMP for exempt activities or other permits involving tree removal and land clearing where necessary if project plans or other information does not clearly demonstrate compliance with this section. The SVMP shall <u>document compliance with the mitigation sequence and</u> identify appropriate <u>compensatory</u> mitigation, performance assurances, and maintenance and monitoring requirements necessary to assure no net loss of ecological functions. See Chapter 4, Section C(3)(a)( <del>64 and 5</del> ) for additional SVMP requirements when the proposal involves an administrative setback reduction. The Citywide tree standards contained in LMC Section 18A.50.300 (Ordinance #264, 2001) shall be the minimum <u>compensatory</u> mitigation standards and the Shoreline Administrator may require additional <u>compensatory</u> mitigation to meet the no net loss standard. All development, including, but not limited to, development on lots that are less than seventeen thousand (17,000) square feet that would otherwise be exempt under the Citywide tree regulations, shall be required to comply with the standards contained in this SMP as well as those in Title 18A LMC. | <i>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which require that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. These changes differentiate between the mitigation sequence and compensatory mitigation and correct reference errors.</i>   |
| CC   | Chapter 4 (A)<br>Page 43                | Shoreline Use<br>Provisions<br>Applicability           | As required by the SMA, this SMP sets forth policies and regulations governing specific categories of uses and activities typically found in shoreline areas. The policies and regulations cover the following uses and activities: Agriculture, Aquaculture, Boating Facilities, Commercial Development (Primary and Accessory), Forest Practices, Industrial Development, Mining, Parking (as a primary use), Recreational Facilities, Residential Development, Scientific, Historical, Cultural, or Educational Uses, Signage, Transportation, and Utilities (Primary and Accessory). The policies and regulations provide the basic criteria for evaluating shoreline permit applications <u>and exemptions</u> and are used to implement the broader goals, policies and intent of the SMA and this Program.   | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(iii)(A), which states that the SMA's provisions are intended to provide for the management of <u>all</u> development and uses within its jurisdiction whether or not a shoreline permit is required, and that local governments have the authority and responsibility to enforce master program regulations on <u>all</u> uses and development in the shoreline area.</i>  |

| ITEM   | SMP PROVISION                | TOPIC                        | Bill Format Changes [ <u>underline</u> -additions; <del>strikethrough</del> -deletions] |                              |                                |                   |                    | ECOLOGY - DISCUSSION/RATIONALE  |                |                |
|--|------------------------------|------------------------------|---|------------------------------|--------------------------------|-------------------|--------------------|---|----------------|----------------|
| DD   | Chapter 4 (C) (1)<br>Page 45 | Table 1. Shoreline Use Table |   |                              |                                |                   |                    | <p><i>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which require that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies.</i></p> <p><i>As currently written, launching rails are lumped into the definition of “Boat Launch or Ramp”. According to Table I, that would mean launching rails are allowed as conditional uses in the Shoreline Residential, Urban Park, and Aquatic designations because they are not addressed as a separate boating facility use like marinas and boat launches are. Allowing launch rails as a CUP in all of those designations would conflict with Table IV, which states they are permitted in the Shoreline Residential designation, and with the text in Chapter 5, Section (C)(5)(g)(1), which states they are conditional uses only in the Shoreline Residential designation in lieu of a moorage pier. This change clarifies that for purposes of the SMP launching rails are not boating facilities and are addressed in Chapter 5. The conflict between Table IV and the text in Chapter 5 has been addressed in required change XX below.</i></p>   |                |                |
|  |                              |                              | <b>SHORELINE USE</b>  | <b>Shoreline Residential</b> | <b>Urban-Stream Protection</b> | <b>Urban Park</b> | <b>Conservancy</b> |   | <b>Natural</b> | <b>Aquatic</b> |
|  |                              |                              | <b>Boating Facilities</b> <sup>1</sup>  |                              |                                |                   |                    |   |                |                |
|  |                              |                              | Boat Launch <sup>4</sup>  | C                            | X                              | C                 | X                  |   | X              | C              |
| <p><sup>4</sup> <a href="#">Launching rails are not considered boating facilities for purposes of this Section. Launching rails are not intended to serve more than four (4) residences. For launching rail provisions, see Chapter 5.</a></p> |                              |                              |   |                              |                                |                   |                    |   |                |                |
| EE   | Chapter 4 (C) (1)<br>Page 45 | Table 1. Shoreline Use Table |   |                              |                                |                   |                    | <p><i>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which require that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. These changes are required for consistency between this Table, the management policies for these three environment designations, and recreation policies and regulations (text pasted below, <u>emphasis added</u>).</i></p> <p><i>Shoreline Residential: 2) Limited non-residential uses, such as <u>water-oriented recreation facilities, parks, day care facilities, and home occupation businesses should be allowed, provided they are consistent with the residential character and the requirements of the underlying zone.</u></i></p> <p><i>Urban Park: 4) Water oriented recreation uses, such as viewing trails, benches and shelters, should be emphasized and <u>non-water oriented uses should be minimized and allowed only as an accessory use;</u></i></p> <p><i>Conservancy: 2) Water oriented recreation uses, such as viewing trails, benches and shelters, should be emphasized and <u>non-water oriented uses should be minimized and allowed only as an accessory use;</u></i></p> <p><i>Recreational Development: Policy 1) Primary recreational uses in the shoreline jurisdiction should be limited to water-oriented uses. <u>Non-water-oriented recreational facilities may be allowed as an accessory use and in limited circumstances where they do not displace water oriented uses, for example, where visual access is incorporated if feasible and physical</u></i></p> |                |                |
|  |                              |                              | <b>SHORELINE USE</b>  | <b>Shoreline Residential</b> | <b>Urban-Stream Protection</b> | <b>Urban Park</b> | <b>Conservancy</b> |   | <b>Natural</b> | <b>Aquatic</b> |
|  |                              |                              | <b>Recreation</b> <sup>3</sup>  |                              |                                |                   |                    |   |                |                |
|  |                              |                              | Non-water oriented (as an accessory use)  | P                            | P                              | P                 | P                  |   | C              | X              |
| Non-water oriented (as a primary use)  | <del>X</del>                 | C                            | <del>X</del>  | <del>X</del>                 | X                              | X                 |                    |   |                |                |

| ITEM  | SMP PROVISION             | TOPIC                                   | Bill Format Changes [ <u>underline</u> -additions; <del>strikethrough</del> -deletions]  | ECOLOGY - DISCUSSION/RATIONALE  |                       |                         |            |             |         |         |                                  |  |  |  |  |  |  |                  |   |   |   |                 |   |   |   |   |   |   |                 |   |   |  |
|---|---------------------------|---|--|---|-----------------------|-------------------------|------------|-------------|---------|---------|----------------------------------|--|--|--|--|--|--|------------------|---|---|---|-----------------|---|---|---|---|---|---|-----------------|---|---|--|
|   |                           |   |  | <p>access is not possible; and Regulation 3) <u>Water-dependent or water-related activities</u> such as swimming, boating, and fishing, and activities that benefit from waterfront scenery, such as picnicking, hiking and bicycling, <u>shall be emphasized in planning public and private (excluding residential) noncommercial recreation sites in the shoreline corridor.</u></p>  |                       |                         |            |             |         |         |                                  |  |  |  |  |  |  |                  |   |   |   |                 |   |   |   |   |   |   |                 |   |   |  |
| FF  | Chapter 4 (C) (1) Page 46 | Table 1. Shoreline Use Table            | <table border="1"> <thead> <tr> <th data-bbox="634 326 841 418">SHORELINE USE</th> <th data-bbox="841 326 986 418">Shoreline Residential</th> <th data-bbox="986 326 1131 418">Urban-Stream Protection</th> <th data-bbox="1131 326 1231 418">Urban Park</th> <th data-bbox="1231 326 1392 418">Conservancy</th> <th data-bbox="1392 326 1513 418">Natural</th> <th data-bbox="1513 326 1620 418">Aquatic</th> </tr> </thead> <tbody> <tr> <td data-bbox="634 418 841 475"><b>Transportation Facilities</b></td> <td data-bbox="841 418 986 475"></td> <td data-bbox="986 418 1131 475"></td> <td data-bbox="1131 418 1231 475"></td> <td data-bbox="1231 418 1392 475"></td> <td data-bbox="1392 418 1513 475"></td> <td data-bbox="1513 418 1620 475"></td> </tr> <tr> <td data-bbox="634 475 841 508">New Public Roads</td> <td data-bbox="841 475 986 508">P</td> <td data-bbox="986 475 1131 508">C</td> <td data-bbox="1131 475 1231 508">C</td> <td data-bbox="1231 475 1392 508"><del>C</del>/X</td> <td data-bbox="1392 475 1513 508">C</td> <td data-bbox="1513 475 1620 508">C</td> </tr> <tr> <td data-bbox="634 508 841 626">Expansion of Existing Roads and New Driveways</td> <td data-bbox="841 508 986 626">P</td> <td data-bbox="986 508 1131 626">P</td> <td data-bbox="1131 508 1231 626">P</td> <td data-bbox="1231 508 1392 626"><del>P</del>/X</td> <td data-bbox="1392 508 1513 626">C</td> <td data-bbox="1513 508 1620 626">C</td> </tr> </tbody> </table> | SHORELINE USE   | Shoreline Residential | Urban-Stream Protection | Urban Park | Conservancy | Natural | Aquatic | <b>Transportation Facilities</b> |  |  |  |  |  |  | New Public Roads | P | C | C | <del>C</del> /X | C | C | Expansion of Existing Roads and New Driveways | P | P | P | <del>P</del> /X | C | C | <p>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which states that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. These changes are required for consistency between this Table and Transportation Facilities policies and regulations (text pasted below, <u>emphasis added</u>). Additionally, there is no description in the SMP as to how a combined Conditional Use/Prohibition or a Permitted Use/Prohibition in accordance with this table would be administered.</p> <p>Transportation Facilities: Policies 2) New road construction in the shoreline jurisdiction should be <u>allowed by conditional use</u> only when related to and necessary for the support of permitted shoreline activities; and 3) Expansion of existing roadways in the shoreline jurisdiction <u>should be allowed</u> if such facilities are found to be in the public interest, as determined jointly by the City Engineer and Shoreline Administrator.</p> <p>Regulation 4) New roads and expansion of existing roadways within the shoreline jurisdiction <u>shall be allowed</u> only when the proponent demonstrates that: a. No alternative route is feasible; and b. The roadway is constructed and maintained to cause the least possible adverse impact on the land and water environment.</p> <p>This comment was given to the City in correspondence dated 5/15/2013.</p> |
| SHORELINE USE                                 | Shoreline Residential     | Urban-Stream Protection                 | Urban Park   | Conservancy   | Natural               | Aquatic                 |            |             |         |         |                                  |  |  |  |  |  |  |                  |   |   |   |                 |   |   |   |   |   |   |                 |   |   |  |
| <b>Transportation Facilities</b>              |                           |   |  |   |                       |                         |            |             |         |         |                                  |  |  |  |  |  |  |                  |   |   |   |                 |   |   |   |   |   |   |                 |   |   |  |
| New Public Roads                              | P                         | C                                       | C  | <del>C</del> /X   | C                     | C                       |            |             |         |         |                                  |  |  |  |  |  |  |                  |   |   |   |                 |   |   |   |   |   |   |                 |   |   |  |
| Expansion of Existing Roads and New Driveways | P                         | P                                       | P  | <del>P</del> /X   | C                     | C                       |            |             |         |         |                                  |  |  |  |  |  |  |                  |   |   |   |                 |   |   |   |   |   |   |                 |   |   |  |
| GG  | Chapter 4 (C) (1) Page 46 | Table 1. Shoreline Use Table, Footnotes | <p>KEY<br/> P<sup>3,4</sup> = Permitted Use<br/> C = Conditional Use<br/> X = Prohibited</p> <p><sup>1</sup> See Chapter 5 (Shoreline Modifications) for specific types of in-water <u>or over water structures/facilities recreational development</u> allowed in each environment (e.g. piers, docks and floats). Please note, boat ramps and overwater structures are not allowed in the Urban - Stream Protection, Conservancy, and Natural environments.</p> <p><sup>2</sup> In the Shoreline Residential, <u>Conservancy</u> and Urban Park environments, only water-oriented commercial activities <del>and</del> <u>or</u> limited accessory commercial uses are allowed, e.g. day care in Shoreline Residential and concessions in the Urban Park, per the use standards in Commercial Uses in this SMP and in the underlying zoning.</p> <p><sup>3</sup> See permit requirements and exemptions in Chapter 5 and Chapter 6.</p>  | <p>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires that Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. The first change (to the key) is required because there was no footnote 4*, and the language in footnote 3 appears to be applicable to the text in the key (permitted uses) that it is assigned to.</p> <p>The change to footnote 1 is required for consistency, because the footnote has not been applied to or used in the context only of recreational development.</p> <p>The change to footnote 2 is required because Table 1 outlines that water oriented commercial uses or limited accessory commercial uses are also allowed in the Conservancy designation. "And" has been changed to "or" because it was unclear if the 'water-oriented' language from first part of the sentence applied (meaning limited accessory uses would have to be water oriented). It is clear from other sections of the SMP (environment designation policies, use-related policies and regulations, and table 1) that this was not the intent; "or" clarifies this. This comment was also given to the City in correspondence dated 5/15/2013.</p> <p>*A new footnote 4 has been added per required change DD above.</p> |                       |                         |            |             |         |         |                                  |  |  |  |  |  |  |                  |   |   |   |                 |   |   |   |   |   |   |                 |   |   |  |

| ITEM  | SMP PROVISION   | TOPIC   | Bill Format Changes [ <u>underline</u> -additions; <del>strikethrough</del> -deletions]  |                      |                       |                         |            | ECOLOGY - DISCUSSION/RATIONALE  |  |                                       |   |  |        |        |        |        |                  |   |   |   |   |                |                |                  |  |
|---|---|---|--|----------------------|-----------------------|-------------------------|------------|---|--|---------------------------------------|---|--|--------|--------|--------|--------|------------------|---|---|---|---|----------------|----------------|------------------|--|
| HH  | Chapter 4 (C)<br>(2)<br>Page 47   | Shoreline Development Standards Table   | <table border="1"> <thead> <tr> <th data-bbox="628 185 827 277">DEVELOPMENT STANDARD</th> <th data-bbox="827 185 973 277">Shoreline Residential</th> <th data-bbox="973 185 1118 277">Urban-Stream Protection</th> <th data-bbox="1118 185 1247 277">Urban Park</th> <th data-bbox="1247 185 1403 277">Conservancy</th> <th data-bbox="1403 185 1526 277">Natural</th> <th data-bbox="1526 185 1634 277">Aquatic</th> </tr> </thead> <tbody> <tr> <td data-bbox="628 277 827 337">Maximum Height <sup>1</sup></td> <td data-bbox="827 277 973 337">35 ft.</td> <td data-bbox="973 277 1118 337">35 ft.</td> <td data-bbox="1118 277 1247 337">35 ft.</td> <td data-bbox="1247 277 1403 337">35 ft.</td> <td data-bbox="1403 277 1526 337">35 ft.</td> <td data-bbox="1526 277 1634 337">N/A <sup>3</sup></td> </tr> <tr> <td data-bbox="628 337 827 1127">Shoreline Setback or Buffer by Waterbody <sup>2,4</sup></td> <td data-bbox="827 337 973 1127">                     65 ft. Setback<br/><br/>                     (Note: May be reduced to 50 ft. with enhancement)                 </td> <td data-bbox="973 337 1118 1127">                     Clover Creek 65 ft. Buffer<br/><br/>                     (Note: May be reduced to 50 ft. with enhancement)                 </td> <td data-bbox="1118 337 1247 1127">                     100 ft. Setback for Urban Park properties on all lakes<br/><br/>                     (Note: May be reduced to 75 ft. with enhancement)<br/><br/> <a href="#">Clover Creek 65 ft. Buffer</a><br/><br/>                     (Note: <a href="#">May be reduced to 50 ft. with enhancement</a>)                 </td> <td data-bbox="1247 337 1403 1127">150 ft. Buffer</td> <td data-bbox="1403 337 1526 1127">150 ft. Buffer</td> <td data-bbox="1526 337 1634 1127">N/A <sup>3</sup></td> </tr> </tbody> </table> | DEVELOPMENT STANDARD | Shoreline Residential | Urban-Stream Protection | Urban Park | Conservancy   | Natural  | Aquatic                               | Maximum Height <sup>1</sup>   | 35 ft.   | 35 ft. | 35 ft. | 35 ft. | 35 ft. | N/A <sup>3</sup> | Shoreline Setback or Buffer by Waterbody <sup>2,4</sup> | 65 ft. Setback<br><br>(Note: May be reduced to 50 ft. with enhancement) | Clover Creek 65 ft. Buffer<br><br>(Note: May be reduced to 50 ft. with enhancement) | 100 ft. Setback for Urban Park properties on all lakes<br><br>(Note: May be reduced to 75 ft. with enhancement)<br><br><a href="#">Clover Creek 65 ft. Buffer</a><br><br>(Note: <a href="#">May be reduced to 50 ft. with enhancement</a> ) | 150 ft. Buffer | 150 ft. Buffer | N/A <sup>3</sup> | <p><i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. According to Table II of the SMP, streams are assigned buffers while lakes are assigned setbacks. This change is required to recognize that Springbrook Park, which is located on Clover Creek, has been designated Urban Park.</i></p> |
| DEVELOPMENT STANDARD  | Shoreline Residential   | Urban-Stream Protection   | Urban Park   | Conservancy          | Natural               | Aquatic                 |            |   |  |                                       |   |  |        |        |        |        |                  |   |   |   |   |                |                |                  |  |
| Maximum Height <sup>1</sup>   | 35 ft.  | 35 ft.  | 35 ft.   | 35 ft.               | 35 ft.                | N/A <sup>3</sup>        |            |   |  |                                       |   |  |        |        |        |        |                  |   |   |   |   |                |                |                  |  |
| Shoreline Setback or Buffer by Waterbody <sup>2,4</sup>                                 | 65 ft. Setback<br><br>(Note: May be reduced to 50 ft. with enhancement) | Clover Creek 65 ft. Buffer<br><br>(Note: May be reduced to 50 ft. with enhancement) | 100 ft. Setback for Urban Park properties on all lakes<br><br>(Note: May be reduced to 75 ft. with enhancement)<br><br><a href="#">Clover Creek 65 ft. Buffer</a><br><br>(Note: <a href="#">May be reduced to 50 ft. with enhancement</a> )  | 150 ft. Buffer       | 150 ft. Buffer        | N/A <sup>3</sup>        |            |   |  |                                       |   |  |        |        |        |        |                  |   |   |   |   |                |                |                  |  |
| II  | Chapter 4 (C)<br>(2)<br>Page 48   | Shoreline Development Standards Table   | <table border="1"> <thead> <tr> <th data-bbox="628 1170 973 1230">DEVELOPMENT STANDARD</th> <th data-bbox="973 1170 1139 1230">Shoreline Residential</th> <th data-bbox="1139 1170 1344 1230">Urban-Stream Protection</th> <th data-bbox="1344 1170 1588 1230">Urban Park</th> </tr> </thead> <tbody> <tr> <td data-bbox="628 1230 973 1507">Maximum Impervious Surface or Hard Surface Coverage within Shoreline Setback or Buffer.</td> <td data-bbox="973 1230 1139 1507">10% within 25 ft. of the OHWM, 20% within remaining portion of setback</td> <td data-bbox="1139 1230 1344 1507">See critical area buffer requirements</td> <td data-bbox="1344 1230 1588 1507">10% within 25 ft. of the OHWM, 20% within remaining portion of setback <a href="#">for lakes</a><br/><br/><a href="#">See critical area buffer requirements for</a></td> </tr> </tbody> </table>   | DEVELOPMENT STANDARD | Shoreline Residential | Urban-Stream Protection | Urban Park | Maximum Impervious Surface or Hard Surface Coverage within Shoreline Setback or Buffer. | 10% within 25 ft. of the OHWM, 20% within remaining portion of setback | See critical area buffer requirements | 10% within 25 ft. of the OHWM, 20% within remaining portion of setback <a href="#">for lakes</a><br><br><a href="#">See critical area buffer requirements for</a> | <p><i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. According to Table II of the SMP, streams are assigned buffers while lakes are assigned setbacks. This change is required to recognize that Springbrook Park, which is located on Clover Creek, has been designated Urban Park.</i></p> |        |        |        |        |                  |   |   |   |   |                |                |                  |  |
| DEVELOPMENT STANDARD  | Shoreline Residential   | Urban-Stream Protection   | Urban Park   |                      |                       |                         |            |   |  |                                       |   |  |        |        |        |        |                  |   |   |   |   |                |                |                  |  |
| Maximum Impervious Surface or Hard Surface Coverage within Shoreline Setback or Buffer. | 10% within 25 ft. of the OHWM, 20% within remaining portion of setback  | See critical area buffer requirements   | 10% within 25 ft. of the OHWM, 20% within remaining portion of setback <a href="#">for lakes</a><br><br><a href="#">See critical area buffer requirements for</a>  |                      |                       |                         |            |   |  |                                       |   |  |        |        |        |        |                  |   |   |   |   |                |                |                  |  |

| ITEM | SMP PROVISION                                 | TOPIC   | Bill Format Changes [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]   | ECOLOGY - DISCUSSION/RATIONALE  |
|------|---|---|---|---|
| JJ   | Chapter 4 (C)<br>(3) (a) (4 and 5)<br>Page 50 | Flexible Shoreline Setback and Buffer Regulations | 4) All property owners who obtain approval for a setback or buffer reduction must <u>have prepared</u> and agree to adhere to a SVMP approved by the Shoreline Administrator and record the final approved setback or buffer and corresponding conditions in a Notice on Title. The Notice on Title shall include a statement regarding the existence of the SVMP and it shall be provided to the Shoreline Administrator.  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. Page 38 of the SMP requires that these plans be prepared by a qualified professional; this change makes that clear. See also required change MMMM below.</i>  |
| KK   | Chapter 4 (C)<br>(3) (a) (9)<br>Page 50       | Flexible Shoreline Setback and Buffer Regulations | 9) Impervious surface coverage within the approved lake setback shall be limited to ten percent (10%) within twenty-five (25) feet of the OHWM and <u>twenty</u> <del>thirty</del> percent ( <u>20%</u> <del>30%</del> ) within the remaining portion of the applied setback. All development within buffers, including impervious surface, is subject to the requirements for Critical Areas contained in this SMP.  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. According to Table II, impervious surface limitations within shoreline setbacks or buffers are 10% within 25 ft. of the OHWM, and 20% within the remaining portion of the setback. This change is required for consistency with that table.</i>   |
| LL   | Chapter 4 (C)<br>Table III<br>Page 52         | Shoreline Setback and Buffer Reduction Mechanisms | Existing hard structural stabilization at or near the OHWM is removed and new hard structural shoreline stabilization measures are setback from the OHWM between two (2) ft. to four (4) ft. based on feasibility and existing conditions and are sloped a maximum angle of 3 vertical: 1 horizontal to provide dissipation of wave energy and increase the quality or quantity of nearshore shallow-water habitat. See Chapter 6 for stabilization measure types and additional standards. <u>For purposes of this reduction mechanism only, need for the replacement structure is not required to be demonstrated as outlined in Chapter 5, Section (C)(2)(c), Shoreline Stabilization – Replacement and Repair.</u>  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. This change ensures there are no conflicts between this chapter and the incentives therein with provisions relating to replacement of shoreline stabilization in Chapter 5.</i>   |
| MM   | Chapter 4 (C)<br>Table III<br>Pages 52 & 53   | Shoreline Setback and Buffer Reduction Mechanisms | 5) Restoration <del>or retention</del> of native vegetation (and preservation of existing trees and native vegetation) in at least 75% of the reduced (i.e. that portion remaining after reductions are applied) setback area. The remaining 25% of the setback area can be comprised of existing non-invasive, non-native vegetation. Up to 20 ft. of frontage may be used for improved shoreline access. Access areas shall be counted as part of the 25% non-native area and located to avoid areas of greater sensitivity and habitat value.<br><br>6) Restoration <del>or retention</del> of native vegetation (and preservation of existing trees and native vegetation) in at least 25% of the reduced setback area. Up to 20 ft. of frontage may be used for improved shoreline access. Access areas shall be counted as part of the 75% non-native area and located to avoid areas of greater sensitivity and habitat value. | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. Retention and preservation of native vegetation and existing trees is already required by the SMP (see Chapter 3, section B(8)). It is not appropriate to give setback reductions for activities that are already required by the SMP. Focus on the restoration component is necessary for this action to be a viable reduction mechanism.<br/><br/>This comment was given to the City in correspondence dated 9/15/2011 and 5/15/2013.</i> |
| NN   | Chapter 4 (D)<br>(1)<br>Page 54               | Aquaculture                                       | Aquaculture is the <u>culture or</u> farming of fish, shellfish, or other aquatic plants and animals. This activity is of statewide interest.   | <i>This change is required in accordance with WAC 173-26-241 (3)(b)(i)(A), the definition of aquaculture.</i>   |
| OO   | Chapter 4 (D)<br>(2) (c) (3) (h)<br>Page 57   | Boating Facilities Regulations                    | Covered moorage is allowed only <u>in the Shoreline Residential environment</u> by a CUP. Boat lift canopies are a permitted use <u>in the Shoreline Residential environment. See Chapter 5, Section (C)(5)(d)(8) and (9) for applicable standards.</u>   | <i>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A). According to Chapter 5, these structures can be authorized only in the Shoreline Residential environment designation. This section of the SMP (Chapter 4, Section D (2)) is specific to boating facilities as outlined in 2a (Applicability) on page 54, and is silent regarding this topic.</i>   |

| ITEM | SMP PROVISION                               | TOPIC                               | Bill Format Changes [ <u>underline</u> -additions; <del>strikethrough</del> -deletions]   | ECOLOGY - DISCUSSION/RATIONALE   |
|------|---|-------------------------------------|---|--|
|      |   |                                     |   | <p><i>These changes clarify where such structures can be authorized when associated with "boating facilities" as defined in the SMP, and ensure there are no conflicts between Chapters 4 and 5.</i></p>   |
| PP   | Chapter 4 (D)<br>(3) (c) (1) (g)<br>Page 59 | Commercial Development Regulations  | <p>g. The use is non-water oriented and replaces an existing non-water oriented use in an existing commercial building. <u>For purposes of this regulation, replace means the footprint and general intensity of the commercial uses are the same.</u></p>  | <p><i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies.</i></p> <p><i>This comment was given to the City in correspondence dated 1/13/2012.</i></p>   |
| QQ   | Chapter 4 (D)<br>(3) (c) (3)<br>Page 59     | Commercial Development Regulations  | <p>3) <del>Water dependent and water related</del> Commercial uses shall provide public access as required in Chapter 3, Section B(5) and ecological restoration where feasible and shall not negatively impact existing navigation, recreation or public access.</p>   | <p><i>This change is required for compliance with the Guidelines at WAC 173-26-221 (4)(d)(iii), which require that SMPs provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and <u>non water-dependent uses</u> and subdivisions of land into more than four parcels. WAC 173-26-241 (3)(d) requires that public access and ecological restoration be considered as potential mitigation of impacts to shoreline resources and values for all water related or water dependent commercial development unless infeasible or inappropriate.</i></p> <p><i>Chapter 3 Section B(5) and regulations in this section address public access in all of these situations with the exception of non-water oriented uses. This change clarifies that consideration of public access as outlined by the provisions in Chapter 3 applies to all commercial uses, so as to capture non-water oriented uses.</i></p>  |
| RR   | Chapter 4 (D)<br>(6) (c) (11)<br>Page 65    | Residential Development Regulations | <p>For the purposes of this section and WAC 173-27-040(2)(g), the following shall be considered a "normal appurtenance" to a single-family residence. <u>Not all normal appurtenances are considered water oriented:</u></p> <ul style="list-style-type: none"> <li>a. Garages</li> <li>b. Decks</li> <li>c. Driveways and parking areas</li> <li>d. Utilities</li> <li>e. Fences</li> <li>f. Landscaping</li> <li>g. Pathways, walkways and stairways</li> <li>h. Swimming pools and spas</li> <li>i. Flagpoles</li> <li>j. Sheds up to two hundred (200) square feet</li> <li>k. Children's play equipment</li> <li>l. Fire Pits</li> <li>m. Sports courts</li> <li>n. Installation of a septic tank, drain field and grading which does not exceed two hundred fifty (250) cubic yards and which does not involve the placement of fill in any wetland or waterward of the OHWM (when permitted by Tacoma Pierce County Health Department, Pierce County Sewer Utility, and City policies and regulations).</li> </ul> | <p><i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies.</i></p> <p><i>The Master Program outlines that water oriented activities, improvements, uses and structures may be authorized in setbacks, but does not provide an exhaustive list of what that entails. The Department of Ecology does not consider things like flagpoles, sheds or sport courts to be water oriented. Because the list of appurtenances that may be water oriented is left open ended, the first change specifies that not every appurtenance recognized in the City's list for the purpose of defining exemptions (WAC 173-27-040 (2)(g)) is considered water oriented or will be allowed in setbacks.</i></p> <p><i>The second change is required to recognize that an exempt appurtenance is intended to be something that "is necessarily connected to the use and enjoyment of a single-family residence ". Because the changes refer to items that are not considered necessary for use and enjoyment of a single family home, there is no reason for them to be and in fact it is inappropriate for them to be plural.</i></p> <p><i>This comment was given to the City in correspondence dated 1/13/2012 and 5/15/2013.</i></p> |
| SS   | Chapter 4 (D)                               | Trails                              | <p>Normal operation and <u>normal</u> maintenance <u>and repair</u> of all trails in shoreline jurisdiction</p>   | <p><i>This change is required because maintenance and repair are used in various contexts</i></p>  |

| ITEM  | SMP PROVISION                            | TOPIC   | Bill Format Changes [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]  | ECOLOGY - DISCUSSION/RATIONALE  |                       |                         |            |             |         |   |   |                |                |                |                |  |   |                |   |                |                |                       |   |   |   |   |   |  |
|---|--|---|--|---|-----------------------|-------------------------|------------|-------------|---------|---|---|----------------|----------------|----------------|----------------|--|---|----------------|---|----------------|----------------|-----------------------|---|---|---|---|---|--|
|   | (8) (b) (1)<br>Page 68                   | Policies  | should be exempt from the Substantial Development Permit requirements, subject to the specific provisions identified in Chapter 6 <a href="#">Section C(1)</a> .   | <i>throughout the document. Specifying that the intention is for normal maintenance and repair to be an SDP exemption, as authorized by WAC 173-27-040 (2)(b), is necessary. Additionally, there are few specific provisions for exemptions contained in Chapter 6; therefore, the definitions of normal maintenance and normal repair have also been added to the SMP (see also required changes GGGG and HHHH). These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A).</i>   |                       |                         |            |             |         |   |   |                |                |                |                |  |   |                |   |                |                |                       |   |   |   |   |   |  |
| TT  | Chapter 4 (D)<br>(9) (b) (1)<br>Page 69  | Transportation<br>Facilities<br>Policies            | Normal operation, <u>and normal</u> maintenance, and repair of all transportation facilities in the shoreline jurisdiction should be exempt from Substantial Development Permit requirements, subject to the specific provisions identified in Chapter 6 <a href="#">Section C(1)</a> .  | <i>This change is required because maintenance and repair are used in various contexts throughout the document. Specifying that the intention is for normal maintenance and repair to be an SDP exemption, as authorized by WAC 173-27-040 (2)(b), is necessary. Additionally, there are few specific provisions for exemptions contained in Chapter 6; therefore, the definitions of normal maintenance and normal repair have also been added to the SMP (see also required changes GGGG and HHHH). These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A).</i> |                       |                         |            |             |         |   |   |                |                |                |                |  |   |                |   |                |                |                       |   |   |   |   |   |  |
| UU  | Chapter 4 (D)<br>(10) (a)<br>Page 70     | Utilities<br>(Primary)<br>Applicability             | Utilities are services and facilities that produce, transmit, store, process, or dispose of electric power, gas, water, sewage, <del>and</del> communications <u>and the like</u> . Utilities in this SMP are divided into primary and <del>accessory</del> <u>secondary</u> based on type and scale. The provisions of this section apply to primary <u>utility uses</u> and activities such as solid waste handling and disposal, regional water transmission lines and storage facilities, sewage treatment facilities and interceptors, water or sewer pump stations, power generating or high voltage transmission facilities, gas pipelines and storage facilities and regional stormwater treatment facilities. | <i>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies; the term “accessory utilities” is not used in the SMP.</i><br><br><i>WAC 173-26-241 (3)(l) defines utilities, including the encompassing statement “and the like”.</i>   |                       |                         |            |             |         |   |   |                |                |                |                |  |   |                |   |                |                |                       |   |   |   |   |   |  |
| VV  | Chapter 4 (D)<br>(10) (b) (1)<br>Page 71 | Utilities<br>(Primary)<br>Policies                  | New primary utilities should be located outside of shoreline jurisdiction unless <u>they are water oriented</u> , no other feasible option exists, and should utilize existing transportation and utility sites, rights-of-way and corridors where allowed, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.   | <i>This change is required in accordance with WAC 173-26-241 (3)(l), which states that utility production and processing facilities or parts of those facilities that are not water oriented shall not be allowed in shoreline areas unless it can be demonstrated that no feasible option is available.</i>  |                       |                         |            |             |         |   |   |                |                |                |                |  |   |                |   |                |                |                       |   |   |   |   |   |  |
| WW  | Chapter 5 (B)<br>Page 76                 | Table IV<br>Permitted<br>Shoreline<br>Modifications | <table border="1"> <thead> <tr> <th>SHORELINE MODIFICATION</th> <th>Shoreline Residential</th> <th>Urban-Stream Protection</th> <th>Urban Park</th> <th>Conservancy</th> <th>Natural</th> </tr> </thead> <tbody> <tr> <td><del>Dredging and Disposal</del><br/><u>Clearing and Grading</u></td> <td>P</td> <td>P<sup>1</sup></td> <td>P<sup>1</sup></td> <td>P<sup>1</sup></td> <td>C<sup>1</sup></td> </tr> <tr> <td><del>Clearing and Grading</del><br/><u>Dredging and Disposal</u></td> <td>P</td> <td>P<sup>1</sup></td> <td>P</td> <td>P<sup>1</sup></td> <td>C<sup>1</sup></td> </tr> <tr> <td>Dredging<sup>2</sup></td> <td>C</td> <td>C</td> <td>C</td> <td>C</td> <td>C</td> </tr> </tbody> </table>         | SHORELINE MODIFICATION  | Shoreline Residential | Urban-Stream Protection | Urban Park | Conservancy | Natural | <del>Dredging and Disposal</del><br><u>Clearing and Grading</u> | P | P <sup>1</sup> | P <sup>1</sup> | P <sup>1</sup> | C <sup>1</sup> | <del>Clearing and Grading</del><br><u>Dredging and Disposal</u>  | P | P <sup>1</sup> | P | P <sup>1</sup> | C <sup>1</sup> | Dredging <sup>2</sup> | C | C | C | C | C | <i>These changes are required so that Clearing and Grading are recognized as independent shoreline modifications (not only as associated with Dredging and Disposal), and so that footnote 1, which confirms that critical area provisions may also apply, recognizes all environment designations containing streams. With the inclusion of portions of Clover Creek in the Urban Park designation, this addition is necessary.</i><br><br><i>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies.</i> |
| SHORELINE MODIFICATION  | Shoreline Residential                    | Urban-Stream Protection                             | Urban Park   | Conservancy   | Natural               |                         |            |             |         |   |   |                |                |                |                |  |   |                |   |                |                |                       |   |   |   |   |   |  |
| <del>Dredging and Disposal</del><br><u>Clearing and Grading</u> | P  | P <sup>1</sup>                                      | P <sup>1</sup>   | P <sup>1</sup>  | C <sup>1</sup>        |                         |            |             |         |   |   |                |                |                |                |  |   |                |   |                |                |                       |   |   |   |   |   |  |
| <del>Clearing and Grading</del><br><u>Dredging and Disposal</u> | P  | P <sup>1</sup>                                      | P  | P <sup>1</sup>  | C <sup>1</sup>        |                         |            |             |         |   |   |                |                |                |                |  |   |                |   |                |                |                       |   |   |   |   |   |  |
| Dredging <sup>2</sup>   | C  | C   | C  | C   | C                     |                         |            |             |         |   |   |                |                |                |                |  |   |                |   |                |                |                       |   |   |   |   |   |  |
| XX  | Chapter 5 (B)                            | Table IV  | <table border="1"> <thead> <tr> <th>SHORELINE</th> <th>Shoreline</th> <th>Urban-</th> <th>Urban</th> <th>Conservancy</th> <th>Natural</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>   | SHORELINE   | Shoreline             | Urban-                  | Urban      | Conservancy | Natural |   |   |                |                |                |                | <i>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which states that Master Program regulations must be sufficient in scope and detail to ensure the</i> |   |                |   |                |                |                       |   |   |   |   |   |  |
| SHORELINE   | Shoreline                                | Urban-  | Urban  | Conservancy   | Natural               |                         |            |             |         |   |   |                |                |                |                |  |   |                |   |                |                |                       |   |   |   |   |   |  |
|   |  |   |  |   |                       |                         |            |             |         |   |   |                |                |                |                |  |   |                |   |                |                |                       |   |   |   |   |   |  |

| ITEM  | SMP PROVISION   | TOPIC   | Bill Format Changes [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]  |              |             |                   |      |  | ECOLOGY - DISCUSSION/RATIONALE   |  |   |  |  |  |  |  |  |                        |   |   |                |   |   |  |                 |                |   |   |   |   |  |  |
|---|---|---|--|--------------|-------------|-------------------|------|--|--|--|---|--|--|--|--|--|--|------------------------|---|---|----------------|---|---|--|-----------------|----------------|---|---|---|---|--|--|
|   | Page 76   | Permitted Shoreline Modifications               | <table border="1"> <thead> <tr> <th>MODIFICATION</th> <th>Residential</th> <th>Stream Protection</th> <th>Park</th> <th></th> <th></th> <th></th> </tr> </thead> <tbody> <tr> <td><b>OVERWATER AND IN-WATER STRUCTURES</b><sup>4</sup></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Private Community Dock</td> <td>P</td> <td>X</td> <td><del>X</del> P</td> <td>X</td> <td>X</td> <td></td> </tr> <tr> <td>Launching Rails</td> <td><del>P</del> C</td> <td>X</td> <td>X</td> <td>X</td> <td>X</td> <td></td> </tr> </tbody> </table>   | MODIFICATION | Residential | Stream Protection | Park |  |  |  | <b>OVERWATER AND IN-WATER STRUCTURES</b> <sup>4</sup> |  |  |  |  |  |  | Private Community Dock | P | X | <del>X</del> P | X | X |  | Launching Rails | <del>P</del> C | X | X | X | X |  | <p>implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies.</p> <p>These changes correct internal conflicts in the document. Private community piers and docks are a permitted use in the Urban Park environment designation according to Table 1. Launching rails are a conditional use in the Shoreline Residential environment in lieu of a moorage pier, according to Section C(5)(g)(1).</p> |
| MODIFICATION  | Residential   | Stream Protection                               | Park   |              |             |                   |      |  |  |  |   |  |  |  |  |  |  |                        |   |   |                |   |   |  |                 |                |   |   |   |   |  |  |
| <b>OVERWATER AND IN-WATER STRUCTURES</b> <sup>4</sup> |   |   |  |              |             |                   |      |  |  |  |   |  |  |  |  |  |  |                        |   |   |                |   |   |  |                 |                |   |   |   |   |  |  |
| Private Community Dock                                | P   | X   | <del>X</del> P   | X            | X           |                   |      |  |  |  |   |  |  |  |  |  |  |                        |   |   |                |   |   |  |                 |                |   |   |   |   |  |  |
| Launching Rails                                       | <del>P</del> C  | X   | X  | X            | X           |                   |      |  |  |  |   |  |  |  |  |  |  |                        |   |   |                |   |   |  |                 |                |   |   |   |   |  |  |
| YY  | Chapter 5 (B)<br>Page 76  | Table IV<br>Permitted Shoreline Modifications   | <p><sup>1</sup> The critical area provisions of LMC Title 14A as incorporated into this SMP shall apply within designated critical areas and buffers (such as streams and wetlands). Critical area requirements may further restrict this activity and other development activities in portions of the shoreline management area. Please see LMC Title 14A <a href="#">and Chapter 3, Section (B)(3)</a> for more information.</p>   |              |             |                   |      |  | <p>This change clarifies that in accordance with WAC 173-26-221 (2)(a) and RCW 90.58.610, upon Department of Ecology approval of a shoreline master program or critical area segment of a shoreline master program, critical areas within shorelines of the state are protected under chapter 90.58 RCW. The first sentence of this footnote appropriately references LMC Title 14A as it now applies (as incorporated into the SMP) and this addition points the reader to the section of the SMP that incorporates and modifies LMC Title 14A for purposes of the SMP.</p> |  |   |  |  |  |  |  |  |                        |   |   |                |   |   |  |                 |                |   |   |   |   |  |  |
| ZZ  | Chapter 5 (C)<br>(1) (c) (3)<br>Page 77   | General Policies and Regulations<br>Regulations | <p>In reviewing shoreline modification permits, the Shoreline Administrator shall require steps to <a href="#">avoid then</a> reduce significant ecological impacts according to the mitigation sequence in Chapter 3, Section B.4.C.3.</p>  |              |             |                   |      |  | <p>This change is required in accordance with WAC 173-26-201 (2)(e)(I); this section of the Guidelines requires mitigation measures be applied in a specific sequence, which sequence begins with avoiding the impacts all together.</p>   |  |   |  |  |  |  |  |  |                        |   |   |                |   |   |  |                 |                |   |   |   |   |  |  |
| AAA   | Chapter 5 (C)<br>(2) (a)<br>Page 78   | Shoreline Stabilization Applicability           | <p>Shoreline stabilization includes structures and actions taken to address erosion impacts caused by natural processes, such as currents, floods, and waves. Examples of stabilization methods include beach restoration and enhancement, soil bioengineering, and bulkheads. "Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete or boulder bulkheads, while "soft" structural measures rely on less rigid materials, such as anchored logs, limited rock placement in conjunction with other components, <a href="#">bioengineered vegetation measures</a>, and beach enhancement. Nonstructural methods include <del>bioengineered vegetation measures</del>, building setbacks, relocation of the structure to be protected, ground water management, and planning and regulatory measures.</p> |              |             |                   |      |  | <p>This change is required in accordance with WAC 173-26-231 (3)(a) (i) and (ii). These sections of the Guidelines define structural versus non structural shoreline stabilization actions, and outline that biotechnical vegetation measures are a type of structural shoreline stabilization measure ("soft" measure).</p>   |  |   |  |  |  |  |  |  |                        |   |   |                |   |   |  |                 |                |   |   |   |   |  |  |
| BBB   | Chapter 5 (C)<br>(2) (b) (4)<br>Page 80   | Shoreline Stabilization Policies                | <p>New or expanded structural shoreline stabilization should only be permitted where necessary to protect an existing primary structure <a href="#">or a legally existing shoreline use</a> that is in danger of loss or substantial damage, and where <del>mitigation of impacts</del> <a href="#">it</a> would not cause a net loss of shoreline ecological functions and processes.</p>   |              |             |                   |      |  | <p>This change is required for compliance with WAC 173-26-231 (2)(a); unclear language has been removed per WAC 173-26-191 (2)(a)(ii)(A).</p>  |  |   |  |  |  |  |  |  |                        |   |   |                |   |   |  |                 |                |   |   |   |   |  |  |
| CCC   | Chapter 5 (C)<br>(2) (c)<br>Shoreline Stabilization – General Requirements<br>(2) and (3) | Shoreline Stabilization Regulations             | <p>2) Except as otherwise provided in these regulations, <del>hard-armor</del> <a href="#">structural shoreline stabilization</a> to <del>reduce-shoreline</del> <a href="#">protect primary structures from</a> damage from erosion shall be allowed only after it is demonstrated through a geotechnical report that <del>soft armor</del> <a href="#">armor</a> <del>ing-or</del> non-structural solutions would not provide sufficient protection to existing structures. If structural stabilization is necessary to protect structures, then the feasibility of soft structural measures shall be evaluated prior to consideration of hard structural measures. Soft structural stabilization measures shall be used unless the Shoreline Administrator determines that it is not feasible based on the geotechnical report required</p>       |              |             |                   |      |  | <p>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A) and WAC 173-26-231 (3)(a)(iii)(D). As written, these provisions were mixing two separate levels of analysis – first, <u>if</u> shoreline stabilization is necessary and second, <u>when</u> hard armor may be authorized over soft stabilization measures. Additionally, these provisions apply to both new/enlarged and replacement stabilization structures.</p>   |  |   |  |  |  |  |  |  |                        |   |   |                |   |   |  |                 |                |   |   |   |   |  |  |

| ITEM | SMP PROVISION  | TOPIC                               | Bill Format Changes [ <u>underline</u> -additions; <del>strikethrough</del> -deletions]   | ECOLOGY - DISCUSSION/RATIONALE  |
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|      | Page 81  |                                     | <p>in this section and provided by the applicant.</p> <p>3) The geotechnical report shall evaluate the necessity of structural stabilization measures by estimating timeframes and rates of erosion, urgency <del>of replacement</del>, alternative solutions, and other pertinent factors. Hard armoring shall not be authorized except where the geotechnical report confirms that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion in the absence of such measures or where waiting until the need is that immediate would foreclose the opportunity to use measures that would avoid impacts on ecological functions. Where a geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as three (3) years, soft structural stabilization measures may be authorized.</p> |   |
| DDD  | Chapter 5 (C)<br>(2) (c)<br>Shoreline Stabilization – New Development Regulation (1)<br>Page 81        | Shoreline Stabilization Regulations | New development, including land subdivision, shall, to the extent feasible, be located and designed to eliminate the need for concurrent or future shoreline stabilization and ensure no net loss of ecological function at full build-out. <u>A geotechnical analysis of the site and shoreline characteristics shall be required to assure that lots created through subdivision will not require shoreline stabilization in order for reasonable development to occur.</u> New <del>non-water dependent</del> development that would require shoreline stabilization and cause significant adverse impacts to adjacent or down-current properties is prohibited  | <i>These changes are required for compliance with WAC 173-26-231 (3)(a)(iii)(A).</i>  |
| EEE  | Chapter 5 (C)<br>(2) (c)<br>Shoreline Stabilization – New Development Regulation (2)(a)<br>Page 82     | Shoreline Stabilization Regulations | The need to protect the development from damage due to erosion caused by natural processes, such as currents and waves, <del>and by manmade processes, such as boat wakes,</del> is demonstrated through a geotechnical report;   | <p><i>These changes are required for compliance with WAC 173-26-231 (3)(a)(i) and WAC 173-26-231 (3)(a)(iii)(B)(II).</i></p> <p><i>The comment was made to the City in correspondence dated 9/15/2011 and 11/9/2011.</i></p>  |
| FFF  | Chapter 5 (C)<br>(2) (c)<br>Shoreline Stabilization – Replacement and Repair Regulation (4)<br>Page 83 | Shoreline Stabilization Regulations | A major repair <u>or replacement</u> of a hard shoreline stabilization structure shall be allowed without a demonstration of need when the existing primary structure is ten (10) feet or less from the OHWM. All other major repair proposals must include a written narrative prepared by a qualified geotechnical engineer that provides a demonstration of need. A major repair shall be defined as:  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which states that Master Program regulations must be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. Replacement and repair regulation #1 on page 82 states that existing shoreline stabilization structures shall not be replaced with a similar structure without a demonstration of need, but how that need is demonstrated is never addressed. This language addresses that gap.</i> |
| GGG  | Chapter 5 (C)  | Shoreline                           | Shoreline stabilization <del>should</del> <u>shall</u> not be used to create new or newly usable land.  | <i>This change is required to support consistent use of the terms “should” and “shall”. The</i>   |

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|      | (2) (c)<br>Shoreline Stabilization – General Design Requirements Regulation (2)<br>Page 83                        | Stabilization Regulations                                |   | <i>Guidelines differentiate between “shall” (the imperative voice meaning a mandate, and that the action is required) and “should” (that the action is required unless a demonstrated reason is given not to and that the action is within discretion) in WAC 173-26-191 (2). “Should” is to be used in policies and “shall” is to be used in standards or regulations.</i>   |
| HHH  | Chapter 5 (C)<br>(2) (c)<br>Shoreline Stabilization – Beach Restoration and Enhancement Regulation (2)<br>Page 84 | Shoreline Stabilization Regulations                      | Beach enhancement <u>for the purpose of shoreline stabilization</u> is limited to the minimum necessary <del>to accomplish shoreline stabilization</del> . Proposals, <del>which</del> <u>exceeding the this</u> threshold <u>outlined in Section 4(c)(2)</u> , shall be subject to the requirements for shoreline fill <u>in that section this Chapter, shall require a CUP and shall only be allowed in conjunction with a water dependent or public use permitted by this SMP, and for fisheries, aquaculture or wildlife enhancement projects.</u>  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which states that Master Program regulations must be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. As originally written, this regulation appears to conflict with the description of “Beach Restoration or Enhancement” on page 78, which outlines it can be done for various purposes only one of which is shoreline stabilization. Other purposes include recreation or aquatic habitat creation. These changes also point the reader to the section of the SMP that outlines at what point beach restoration exceeds “small scale” and is considered fill, and under what circumstances such fill may be accommodated.</i> |
| III  | Chapter 5 (C)<br>(3) (c) (11)<br>Page 88  | Dredging and Disposal Regulations                        | Depositing dredge materials in all water areas shall be prohibited, except where authorized in Regulation <del>5</del> <u>6</u> above.  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A); the reference given appears to be incorrect.</i>  |
| JJJ  | Chapter 5 (C)<br>(4) (a)<br>Page 89   | Fill Applicability                                       | <del>The policies contained herein are intended to focus on the aspects of natural systems affected by dredging and the disposal of dredge material, man-made fill, cuts, excavations and site grading actions, while at the same time recognizing the community's needs.</del>   | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A); it is unclear how any of this text, with the exception of the word “fill”, relates to this section of the SMP.</i>  |
| KKK  | Chapter 5 (C)<br>(5) (b)<br>Page 91   | Overwater Structures and Launching Facilities Exemptions | Construction of dock structures for the private noncommercial use of the owner, lessee, or contract purchaser of single- and multi-family residences are exempt from the requirement for a Substantial Development Permit pursuant to RCW 90.58.030(3)(e)(vii) and WAC 173-27-040(2)(h). <u>A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances.</u> This exception applies if the fair market value of the dock does not exceed ten thousand dollars (\$10,000), but if subsequent construction having a fair market value exceeding two thousand five hundred dollars (\$2,500) occurs within five (5) years of completion of the prior construction, the subsequent construction shall be considered a substantial development. <del>The ten thousand dollar (\$10,000) threshold will be adjusted for inflation by the State Office of Financial Management every five (5) years, beginning July 1, 2007, based upon changes in the consumer price index during that time period, and this change is hereby incorporated by reference.</del> | <i>These changes are required in accordance with RCW 90.58.030 (3)(e)(vii) and WAC 173-27-040 (2)(h). The reference is incomplete; additionally, the inflation adjustment applies <u>only</u> to the threshold for development before it is considered substantial development and not to all of the other exemptions identified in the statute and in the rule (not to this exemption specifically).</i>   |
| LLL  | Chapter 5 (C)   | Overwater  | 4) New piers and docks shall be allowed only for public access and water-dependent use,   | <i>This change is required for internal consistency and clarity; WAC 173-26-191 (2)(a)(ii)(A).</i>  |

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|      | (5) (d) (4) (a)<br>Page 93            | Structures and Launching Facilities<br>Regulations – Docks, Piers and Moorage Structures           | which includes a structure associated with a single-family residence that is designed and intended as a facility for access to watercraft and otherwise complies with the regulations contained in this section. Piers and docks of the minimum size necessary to accommodate the proposed water dependent use may be permitted accessory to a development provided:<br><br>a. No more than one (1) pier/dock for each single-family residence is permitted. <u>Up to one (1) buoy is allowed per dwelling unit in lieu of a dock.</u>   | <i>Chapter 5, Section C(5)(f)(2) states one moorage buoy is allowed per dwelling unit in lieu of a dock.</i>  |
| MMM  | Chapter 5 (C) (5) (d) (10)<br>Page 95 | Overwater Structures and Launching Facilities<br>Regulations – Docks, Piers and Moorage Structures | Proposed overwater structures that do not comply with the dimensional standards in Table V may only be approved if they obtain a variance. Provided that, pursuant to WAC 173-27-040 (2)(b), any legally existing nonconforming pier or dock may be repaired or restored ( <del>including</del> replacement <u>may be authorized as repair</u> ) to its original pre-existing size, dimension, <u>configuration</u> and location without the need for a variance, <u>provided such activity meets the definition of normal maintenance and repair</u> . Projects undertaken pursuant to this section must be permitted within two years of removal of the pre-existing, nonconforming structure. | <i>This change is required because maintenance and repair are used in various contexts throughout the document. Specifying that the intention is for normal maintenance and repair to be an SDP exemption, as authorized by WAC 173-27-040 (2)(b), is necessary. Definitions of normal maintenance and normal repair have also been added to the SMP (see required changes GGGG and HHHH). These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A).</i>  |
| NNN  | Chapter 5 (C) (5) (g) (5)<br>Page 98  | Overwater Structures and Launching Facilities<br>Regulations – Boat Launches (Rails and Ramps)     | Launching ramps <del>and launching ramps</del> serving more than four (4) residential units are regulated as Boating Facilities and they must comply with all policies and regulations in Chapter <del>4</del> <u>5</u> of this SMP. <u>Launching rails serving more than four (4) residential units are prohibited.</u>   | <i>This change is required for internal consistency and clarity; WAC 173-26-191 (2)(a)(ii)(A). “Launching ramps” was repetitive, and the regulations relating to boating facilities are in Chapter 4 not Chapter 5. As outlined in required changes DD and XX above, there were multiple inconsistent references throughout the document to launching rails. The most intelligible language indicated they are to be permitted as a conditional use in the Shoreline Residential environment in lieu of a moorage pier. Because they were not addressed in Chapter 4, Ecology supposes they were not intended to be considered boating facilities (to serve more than 4 residential units).</i> |
| OOO  | Chapter 6 (B) (2) (a) (3)<br>Page 102 | Administration<br>Shoreline Administrator Duties   | 3) Making administrative decisions and interpretations of the policies and regulations of this SMP and the SMA. <u>In development of any procedures for and/or administrative interpretations of the Master Program, the Administrator shall consult with the Department of Ecology to insure any formal written interpretation is consistent with the purpose and intent of the Shoreline Management Act and the Shoreline Master Program Guidelines.</u>   | <i>This change is required in accordance with WAC 173-26-140.</i>   |
| PPP  | Chapter 6 (C) (1)<br>Page 103         | Administration<br>Exemptions   | <u>f) The Administrator shall prepare a letter of exemption whenever a development is determined to be exempt from the Substantial Development permit requirements and the development is subject to one or more of the federal permit requirements outlined in WAC 173-27-050. The letter shall indicate the specific exemption that is being applied to the development and provide a summary of the City’s analysis of the consistency of the project with the SMP.</u>   | <i>This change is required in accordance with WAC 173-27-050.</i>   |
| QQQ  | Chapter 6 (C)                         | Administration   | Filing with Ecology. All applications for a permit or permit revision shall be submitted to  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(iii)(C).</i>  |

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|      | (2) (g)<br>Page 104                      | Substantial Development                                       | Ecology, as required by WAC 173-27-130 or as subsequently amended. After City approval of a CUP or Variance, the City shall submit the permit to the Ecology for approval, approval with conditions, or denial, as provided in WAC 173-27-200. Ecology shall transmit its final decision to the City and the applicant within thirty (30) calendar days of the date of submittal by the City. <u>Permit revisions shall comply with the revision approval criteria and process provided in WAC 173-27-100.</u>  |   |
| RRR  | Chapter 6 (C)<br>(2) (h)<br>Page 104     | Administration<br>Substantial Development                     | Hold on Construction. Each permit issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of filing with Ecology, per WAC 173-27-190 or as subsequently amended. "Date of filing" of the City's final decision on Substantial Development Permits differs from date of filing for a CUP or variance. In the case of a substantial development permit, the date of filing is the date <u>Ecology actually receives</u> the City's <del>transmits its</del> decision on the permit <del>to Ecology</del> . In the case of a variance or CUP, the "date of filing" means the date that Ecology's final <del>order</del> <u>decision</u> on the permit is transmitted to the City. | <i>These changes are required in accordance with WAC 173-26-190 and RCW 90.58.140 (6).</i>  |
| SSS  | Chapter 6 (C)<br>(2) (i)<br>Page 104     | Administration<br>Substantial Development                     | Duration of permits. Construction, or the use or activity, shall commence within two (2) years after the <u>effective date</u> <del>approval</del> of the permits. Authorization to conduct development activities shall terminate within five (5) years after the effective date of a shoreline permit. The Shoreline Administrator may authorize a single extension before the end of either of these time periods, with prior notice to parties of record and Ecology, for up to one (1) year based on reasonable factors.   | <i>This change is required in accordance with WAC 173-27-090 (2).</i>   |
| TTT  | Chapter 6 (E)<br>Page 107                | Administration<br>Appeals to the Shoreline Hearings Board     | Any person aggrieved by the granting or denying of a substantial development permit, CUP, or variance, the upholding of an exemption appeal, or by the rescinding of a permit pursuant to the provisions of this SMP, may seek review from the State of Washington Shorelines Hearing Board by filing a petition for review within twenty-one (21) days of the date of <u>filing of</u> the permit decision. Within seven (7) days of filing the petition, the petitioner shall serve copies of the petition to Ecology, the Attorney General's Office, and the City of Lakewood. State Hearings Board regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC.  | <i>This change is required in accordance with RCW 90.58.180 (1).</i>  |
| UUU  | Chapter 6 (F)<br>(2) (c) (1)<br>Page 107 | Administration<br>Nonconforming Use and Development Standards | An undeveloped lot, tract, parcel, site, or division of land located landward of the OHWM, which was <u>legally</u> established prior to the effective date of the Act or this SMP, but which does not conform to the present lot size standards, may be developed if permitted by other land use regulations of the City and so long as such development conforms to all other requirements of this SMP and the SMA.   | <i>This change is required in accordance with WAC 173-27-080 (10).</i>  |
| VVV  | Chapter 6 (H)<br>(2)<br>Page 112         | Administration<br>SMP Review by City of Lakewood              | The City's established permit tracking system, aerial photos, reviewing of other available data, and field observations as feasible shall be used to periodically evaluate the effectiveness of this SMP in achieving no net loss of shoreline ecological functions with respect to both permitting and exemptions. <u>This process shall also be used to periodically evaluate the cumulative effects of authorized development on shoreline conditions.</u>   | <i>This change is required for compliance with WAC 173-26-191 (2)(a)(iii)(D).</i>   |
| WWW  | Chapter 7<br>Page 113                    | Definitions   | <b>Appurtenance</b> - A structure or development which is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the OHWM and also of the perimeter of any wetland. <u>For purposes of this SMP, normal appurtenances are</u>   | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A); this definition does not match the definition on page 65 (Chapter 4, Section D(6)(c)(11)) of the SMP.</i> |

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|      |                       |             | <u>outlined in Chapter 4, Section D(6)(c)(11).</u> <del>Typically includes a garage, deck, driveway, utilities, fences, installation of a septic tank, and drainfield and grading which does not exceed two hundred fifty cubic yards (250) (except to construct a conventional drainfield) and which does not involve placement of fill in any wetland or waterward of the OHWM (see WAC 173-27-040(2)(g)).</del>  |  |
| XXX  | Chapter 7<br>Page 113 | Definitions | <b>Associated wetlands</b> - Those wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the SMA. (See WAC 173-22 <del>7</del> -030(1)).   | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A) and WAC 173-22-030.</i>   |
| YYY  | Chapter 7<br>Page 115 | Definitions | <b>Boathouse</b> - A structure designed for storage of vessels located over water or on shorelands. Boathouses do not include "houseboats" or "floating homes." <u>Boathouses have 4 walls and a solid roof, whereas covered moorage does not include walls, only a roof.</u>   | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A).</i>  |
| ZZZ  | Chapter 7<br>Page 115 | Definitions | <b>Boating facility</b> - A public or private moorage structure <u>or boat launch</u> serving more than four (4) residences.  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A); the change is necessary for consistency with the applicability section regarding Boating Facilities - Chapter 4, Section D(2)(a).</i>  |
| AAAA | Chapter 7<br>Page 117 | Definitions | <b>Emergency</b> - An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the SMP. Emergency construction is construed narrowly as that which is necessary to protect property from <u>damage by</u> the elements. <u>For a complete definition of emergency, including required follow up actions and exclusions from this definition, see</u> RCW 90.58.030(3eiii) and WAC 173-27-040(2d).   | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A); the change is necessary for consistency with the rule definition (WAC 173-27-040 2 d) and is potentially misleading with the information that has been excluded.</i>   |
| BBBB | Chapter 7<br>Page 117 | Definitions | <b>Environmentally Sensitive Areas Ordinance <del>03-1037</del> 362, City of Lakewood</b> - This ordinance provides the goals, policies, and implementing regulations for protecting the designated critical areas of the City. The ordinance addresses environmentally sensitive area development controls; measures important for protecting and preserving these resources; preventing or mitigating cumulative adverse environmental impacts to critical areas; and serves to alert the public to the development limitations of critical areas.                                | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A); all other references to the City's ordinance, including the incorporation by reference language in Chapter 3, Section B(3), references Ordinance No. 362.</i>  |
| CCCC | Chapter 7<br>Page 118 | Definitions | <u><b>Exaction</b> - a concept in real property law where a condition for development is imposed on a parcel of land that requires the developer to mitigate anticipated negative impacts of the development.</u>   | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which requires Master Program regulations be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. The term exaction is used multiple times in Chapter 3 subsection (5) and is never defined.</i> |
| DDDD | Chapter 7<br>Page 118 | Definitions | <b>Exemption</b> - Specific developments exempt from the definition of substantial developments and the Substantial Development Permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still be carried out in compliance with policies and standards of the Act and the local SMP. CUPs and/or Variances may also still be required even though the activity does not need a Substantial Development Permit ( <del>See WAC 172-27-040</del> ). For a complete list of exemptions, see <u>Chapter 7 WAC 173-27-040</u> . | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A); the reference to Chapter 7 is incorrect and there is not a complete list of exemptions in the SMP.</i>   |
| EEEE | Chapter 7             | Definitions | <b>Joint Use <del>Community</del> Pier or Dock</b> - A pier, dock, or secured float or floats for vessel moorage, fishing, or other water use that is shared by two (2) or more <del>users</del> <u>residences, up</u>  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A); all of the text in Chapter 5 and in Table V differentiates joint use moorage structures from community</i>   |

| ITEM | SMP PROVISION         | TOPIC                 | Bill Format Changes [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]  | ECOLOGY - DISCUSSION/RATIONALE  |
|------|-----------------------|-----------------------|--|---|
|      | Page 121              |                       | <u>to four (4) residences. Joint use moorage serving more than four residences is considered a community pier or dock.</u>   | structures.<br>This comment was given to the City on 5/15/2013.   |
| FFFF | Chapter 7<br>Page 122 | Chapter 7<br>Page 121 | <b>Mitigation or Mitigation sequencing</b> - The process of avoiding, reducing, or compensating for the environmental impact(s) of a proposal through the following sequence of steps, listed in order of priority: (See WAC 197-11-768 and WAC 173-26- <del>201 (2)(e)(1)020(30)</del> ):   | This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A); the citation to the WAC is incorrect.  |
| GGGG | Chapter 7<br>Page 123 | Definitions           | <u>Normal maintenance - those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.</u>  | This change is required because maintenance and repair are used in various contexts throughout the document. Specifying that the intention is for normal maintenance and repair to be an SDP exemption, as authorized by WAC 173-27-040 (2)(b), is necessary. These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A).   |
| HHHH | Chapter 7<br>Page 123 | Definitions           | <u>Normal repair - to restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment.</u>  | This change is required because maintenance and repair are used in various contexts throughout the document. Specifying that the intention is for normal maintenance and repair to be an SDP exemption, as authorized by WAC 173-27-040 (2)(b), is necessary. These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A).   |
| IIII | Chapter 7<br>Page 123 | Definitions           | <b>Ordinary High Water Mark (OHWM)</b> - The mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or Ecology provided, that in any area where the OHWM cannot be found, OHWM adjoining fresh water shall be the line of mean high water. (See RCW 90.58.030(2)( <del>bc</del> ) and WAC 173-22-030( <del>511</del> )). | These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A); the citations are incorrect.  |
| JJJJ | Chapter 7<br>Page 123 | Definitions           | <u>Primary structure - the structure associated with the principal use of the property. This also includes single family residential appurtenant structures (such as a garages, attached decks, driveways, utilities, and septic tanks and drainfields) that cannot feasibly be relocated. It does not include structures such as tool sheds, gazebos, greenhouses or other ancillary residential improvements that can feasibly be moved landward to prevent the erosion threat.</u>  | This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which states that Master Program regulations must be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. The SMP states that new shoreline stabilization should only be allowed to protect existing primary structure, which term is never defined. |
| KKKK | Chapter 7<br>Page 127 | Definitions           | <b>Shoreline modification</b> - Those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can also include other actions, such as clearing, grading, <del>or</del> application of chemicals <u>or significant vegetation removal.</u><br><br><del>Shoreline permit - A substantial development permit, CUP, revision, or variance or any combination thereof (See WAC 173-27-030(13)).</del>   | These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A) and WAC 173-26-231 (1). Shoreline modifications can include significant vegetation removal, and the term shoreline permit is already defined on page 123 (Permit or Shoreline Permit).   |
| LLLL | Chapter 7<br>Page 127 | Definitions           | <b>Shoreline stabilization</b> - Actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind or wave action. These actions include structural measures such as bulkheads and nonstructural methods such as <u>building setbacks or relocation of structures</u> <del>soil</del> <u>bioengineering.</u>  | Soil bioengineering is a structural stabilization measure per WAC 173-26-231 (3)(a)(ii). See also required change AAA.  |

| ITEM | SMP PROVISION                  | TOPIC       | Bill Format Changes [ <u>underline-additions</u> ; <del>strikethrough-deletions</del> ]   | ECOLOGY - DISCUSSION/RATIONALE  |
|------|--------------------------------|-------------|---|---|
| MMMM | Chapter 7<br>Page 127          | Definitions | <b>Shoreline vegetation management plan (SVMP)</b> - A plan prepared by a <u>qualified professional</u> <del>an applicant</del> that identifies appropriate mitigation, performance assurances, and maintenance and monitoring requirements necessary to assure no net loss of ecological functions.  | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A), which states that Master Program regulations must be sufficient in scope and detail to ensure the implementation of the Shoreline Management Act, statewide shoreline management policies in the SMP Guidelines, and local master program policies. There are at least four conflicting statements throughout the SMP with regard to who can prepare SVMP plans. See also required change JJ.</i> |
| NNNN | Chapter 7<br>Pages 127 and 128 | Definitions | <b>Shorelines</b> - All of the water areas of the state, including reservoirs and their associated shorelands, together with the lands underlying them, except those areas excluded under RCW 90.58.030(2)( <del>d</del> e).<br><br><b>Shorelines of statewide significance</b> - A select category of shorelines of the state, defined in RCW 90.58.030(2)( <del>e</del> f), where special use preferences apply and greater planning authority is granted by the SMA. SMP policies, use regulations and permit review must acknowledge the use priorities for these areas established by the SMA. (See RCW 90.58.020).  | <i>These changes are required in accordance with WAC 173-26-191 (2)(a)(ii)(A); the citations are incorrect.</i>   |
| OOOO | Chapter 7<br>Page 128          | Definitions | <b>Significant Vegetation Removal</b> - <u>the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.</u>   | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A) and WAC 173-26-020 (36). This term is used at least twice in the SMP and never defined.</i>  |
| PPPP | Chapter 7<br>Page 129          | Definitions | <b>Utilities, <del>Accessory</del> Secondary</b> - Utilities comprised of small-scale distribution and collection facilities connected directly to development within the shoreline area. Examples include local power, telephone, cable, gas, water, sewer and stormwater service lines.   | <i>This change is required in accordance with WAC 173-26-191 (2)(a)(ii)(A); the language is not consistent with the title of Chapter 4, Section D(11).</i>  |
| QQQQ | Maps                           | Figure 1    | <ul style="list-style-type: none"> <li>• <u>Fix colors; the three shades of purple for the Natural, Urban Park and Conservancy shoreline environments are hardly discernible and certainly will not be on subsequent copies. Consider a bright green for the Natural environment and another color for one of the two remaining designations at issue.</u></li> <li>• <u>Change the title of this figure from Environmental Designations to Environment Designations.</u></li> <li>• <u>Show all street ends with the Urban Park designation per (c)(1)(a) on page 11 of the SMP.</u></li> <li>• <u>Remove the draft stamp.</u></li> <li>• <u>Fix whatever feature it is that shows the Urban Park environment extending outside of shoreline jurisdiction at Springbrook Park.</u></li> <li>• <u>Show Oakbrook 4<sup>th</sup> Addition as in the Conservancy environment per (c)(1)(b) on page 13 of the SMP.</u></li> <li>• <u>Show and label Leach Creek on this Figure, since (c)(1) on page 15 of the SMP refers to it.</u></li> </ul> | <i>The comments regarding street ends and Oakbrook 4<sup>th</sup> Addition were given to the City in correspondence dated 1/9/2012 and 5/15/2013.</i>   |

**4The following changes are recommended to clarify elements of the City’s updated SMP.**

| ITEM | SMP PROVISION                           | TOPIC  | BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>striketrough-deletions</del> ]   | ECOLOGY - DISCUSSION/RATIONALE   |
|------|---|--|--|--|
| A    | Chapter 1 (A)<br>Page 1                 | History and Requirements of the Shoreline Management Act | Washington’s Shoreline Management Act (SMA or the Act) was adopted in 1971 <u>by</u> referendum to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines. RCW 90.58.020 outlines the Act’s three broad policies:<br>1. Encourage water-dependent uses, preferably those “consistent with control of pollution and prevention of damage to the natural environment, or <del>are</del> unique to or dependent upon use of the state’s shorelines”;<br>2. Protect shoreline natural resources, including "the land and its vegetation and wildlife, and the waters <u>s</u> of the state and their aquatic life”; and | <i>These changes are recommended for clarity and for consistency with WAC 173-27-186.</i>  |
| B    | Chapter 1 (D)<br>Page 2                 | Shoreline Master Program Basics                          | The City’s SMP is <u>both</u> a planning <u>and regulatory</u> document that outlines policies and development regulations for the City’s shorelines.  | <i>This change is recommended for clarity and accuracy; WAC 173-26-191(1)(a).</i>  |
| C    | Chapter 1 (D)<br>Page 3                 | Shoreline Master Program Basics                          | A description <del>and map</del> of the area within the jurisdiction of this SMP <del>are</del> <u>is</u> presented in Chapter <del>23</del> : Shoreline Environments. <u>Figure 1 depicts the general extent of shoreline jurisdiction in the City.</u>   | <i>This change is recommended for internal SMP consistency; shoreline environments are discussed in chapter 2 not in chapter 3, and the map is not in chapter 3 it is included in the SMP as Figure 1.</i>   |
| D    | Chapter 2 (F)<br>(3) (c) (2)<br>Page 12 | Urban Park Designated Areas                              | 2) Rationale<br>This designation will preserve and enhance the ecological functions of the publicly owned properties and private recreational areas of the shoreline while retaining future options for active and passive <u>water oriented</u> shoreline recreation and public access. The publicly owned parks offer potential for ecological restoration.  | <i>This change is recommended to continue the focus on water oriented recreation given to this designation by the purpose statement and designation criteria. This change also supports required change EE.<br/>This comment was given to the City in correspondence dated 5/15/2013.</i>  |
| E    | Chapter 2 (F)<br>(4) (c) (2)<br>Page 13 | Conservancy Designated Areas                             | 2) Rationale<br>This designation will preserve and enhance the ecological functions of undeveloped and minimally developed portions of the shoreline <u>and sensitive lands</u> while retaining future options for passive shoreline recreation and public access. These areas also offer potential for ecological restoration.  | <i>This change is recommended to continue the focus on sensitive lands given to this designation by the purpose statement and designation criteria. This change also helps further differentiate the Conservancy designation from the Urban Park designation, which are very similar.<br/>This comment was given to the City in correspondence dated 5/15/2013.</i>  |
| F    | Chapter 3 (B)<br>(2) (c) (1)<br>Page 21 | Archaeology and Historic Resources Regulations           | 1) <del>Local d</del> Developers and property owners shall immediately stop work and notify the City, the Department of Archaeology and Historic Preservation and affected Native American tribes if archaeological resources are uncovered during excavation.   | <i>This change is suggested to clarify that this provision would apply to any developer regardless of their regional affiliation or origin.</i>  |
| G    | Chapter 3 (B)<br>(5) (a)<br>Page 28     | Public Access Applicability                              | Public access includes the ability of the general public to reach, touch and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. There is a variety of types of public access, including, but not limited to, picnic areas, pathways and trails, promenades, bridges, street ends, ingress and egress, and parking.<br><br>Existing <u>formal</u> public access to shorelines within the City includes American Lake North Park, Harry Todd Park (American Lake), Edgewater Park (Lake Steilacoom), Fort Steilacoom   | <i>This change is recommended for clarification. The paragraph preceding this statement defines what constitutes public access and gives examples; this statement does not identify or capture ALL opportunities in Lakewood per the given definition or examples, just what could be recognized as formal opportunities. This change would clarify that the public access opportunities listed in this statement may not be a complete or exhaustive list of ALL opportunities in Lakewood.</i> |

| ITEM     | SMP PROVISION                                | TOPIC  | BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strike-through-deletions</del> ]   | ECOLOGY - DISCUSSION/RATIONALE  |
|----------|--|--|--|---|
|          |  |  | Park (Waughop Lake), and Chambers Creek Canyon Park. In addition, there are a number of public street ends where there may be potential for developing public access.  |   |
| <b>H</b> | Chapter 3 (B)<br>(6) (b) (5)<br>Page 32      | Restoration<br>System Wide<br>Restoration<br>Policies  | 5) A public education plan should be developed to inform private property owners in the shoreline zone and in the remainder of the City about the effects of land management practices and other unregulated activities (such as <del>vegetation removal</del> , pesticide/herbicide use, car washing) on fish and wildlife habitats.  | <i>This change is recommended for clarity and consistency; vegetation removal IS a regulated activity under the SMP.</i>  |
| <b>I</b> | Chapter 3 (B)<br>(6) (c)<br>Page 32          | Restoration<br>SMA<br>Restoration<br>Policies          | <p><u>15) In accordance with RCW 90.58.580, a Substantial Development Permit is not required for development on land that is brought under shoreline jurisdiction due to a shoreline restoration project. However, projects are still required to comply with the regulations of this Master Program.</u></p> <p><u>16) Projects taking place on lands that are brought into shoreline jurisdiction due to a shoreline restoration project that caused a landward shift of the OHWM may apply to the Administrator for relief from the SMP development standards and use regulations under the provisions of RCW 90.58.580. Any relief granted shall be strictly in accordance with the limited provisions of RCW 90.58.580, including the specific approval of the Department of Ecology.</u></p> | <p><i>These changes (additions) are recommended to outline the process for seeking relief from SMP development standards and use regulations when a shoreline restoration project causes or would cause a landward shift in the OHWM, and the circumstances under which a substantial development permit is not required. See RCW 90.58.580.</i></p> <p><i>Please note the numbering sequence reflects required change W.</i></p> |
| <b>J</b> | Chapter 3 (B)<br>(8) (b) (7)<br>Page 36      | Shoreline<br>Vegetation<br>Conservation<br>Policies    | 7) In order to increase habitat and address other ecological functions within the shoreline environment <del>designation</del> such as wave attenuation, temperature regulation, and bank stabilization, homeowners and property managers should be encouraged to leave diseased and fallen trees in place along the shoreline edge provided the trees are not a danger to public safety or private property.  | <i>This change is recommended to delete unneeded words for readability and clarity; shoreline designations have nothing to do with this provision.</i>  |
| <b>K</b> | Chapter 3 (B)<br>(8) (b) (10) (d)<br>Page 37 | Shoreline<br>Vegetation<br>Conservation<br>Policies    | d. Use native plant materials wherever possible in soil bioengineering applications and habitat restoration activities for aquatic weed management. Remove, destroy, and modify aquatic vegetation only to the extent necessary to allow water-dependent activities to continue and in a manner that minimizes adverse impacts to native plant communities. Handle and dispose <u>of</u> weed materials and attached sediments appropriately.  | <i>This change is recommended to correct a typographical error.</i>   |
| <b>L</b> | Chapter 3 (B)<br>(8) (c) (1) (a)<br>Page 37  | Shoreline<br>Vegetation<br>Conservation<br>Regulations | a. Removal of noxious weeds as listed by the state in Chapter 16-750 WAC, provided such activity shall be conducted in a manner consistent with BMPs and the City's engineering and stormwater design standards, and native vegetation shall be promptly reestablished in the disturbed area. Noxious weeds removed under this provision shall be removed by hand or using small equipment to minimize negative impacts to the shoreline environment <del>designation</del> .  | <i>This change is recommended to delete unneeded words for readability and clarity; shoreline designations have nothing to do with this provision.</i>  |
| <b>M</b> | Chapter 3 (B)<br>(8) (c) (14)<br>Page 39     | Shoreline<br>Vegetation<br>Conservation<br>Regulations | 14) Stabilization of exposed erosion-prone surfaces within the shoreline environment <del>designation</del> shall utilize soil bioengineering techniques wherever feasible instead <u>of</u> hardscape or structural techniques.   | <i>This change is recommended to delete unneeded words and for readability and clarity; shoreline designations have nothing to do with this provision and a word appears to be missing.</i>   |

| ITEM  | SMP PROVISION                               | TOPIC   | BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strike-through</del> -deletions]  | ECOLOGY - DISCUSSION/RATIONALE   |   |   |
|---|---|---|---|--|---|---|
| N   | Chapter 4 (C)<br>(2)<br>Page 48             | Shoreline<br>Development<br>Standards Table                   | <table border="1" data-bbox="612 154 1083 289"> <tr> <td data-bbox="612 154 1083 207"><b>DEVELOPMENT STANDARD</b></td> </tr> <tr> <td data-bbox="612 207 1083 289">Maximum Impervious Surface Coverage within <del>SMA</del><sup>5</sup> <u>shoreline jurisdiction</u><sup>5</sup></td> </tr> </table>  | <b>DEVELOPMENT STANDARD</b>  | Maximum Impervious Surface Coverage within <del>SMA</del> <sup>5</sup> <u>shoreline jurisdiction</u> <sup>5</sup> | <i>This change is recommended because according to the definitions and abbreviations in Chapter 9, SMA stands for Shoreline Management Act. This clarification would help the reader better understand where this limitation applies.</i> |
| <b>DEVELOPMENT STANDARD</b>   |   |   |   |  |   |   |
| Maximum Impervious Surface Coverage within <del>SMA</del> <sup>5</sup> <u>shoreline jurisdiction</u> <sup>5</sup> |   |   |   |  |   |   |
| O   | Chapter 4 (C)<br>(3) (a) (1)<br>Page 50     | Flexible<br>Shoreline<br>Setback and<br>Buffer<br>Regulations | 1) The standard setback or buffer may be reduced down to the minimum setbacks <del>or</del> <u>buffer</u> identified in Table II for each eligible shoreline environment designation and water body when setback reduction impacts are mitigated using the options provided in Table III to achieve an equal or greater protection of lake or stream ecological functions. Any setback <del>or</del> <u>buffer</u> reduction requests beyond that allowed in Table II shall require a variance. Within the Conservancy and Natural environments, <del>setback</del> <u>buffer</u> reductions shall only be approved as part of the variance process. Variance approval criteria are described in Section 6.D. | <i>These changes are recommended to recognize that according to Table II of the SMP, streams are assigned buffers while lakes are assigned setbacks.</i> |   |   |
| P   | Chapter 4 (C)<br>Table III<br>Page 52       | Shoreline<br>Setback and<br>Buffer<br>Reduction<br>Mechanisms | 2) Restoration of natural shoreline conditions (e.g. no bulkhead or other unnatural shoreline feature such as upland impervious surfaces or other structural alter <del>nations</del> allowed) within 10 ft. of the OHWM, including restoration of native vegetation. This reduction will only be granted if ecological functions would be improved relative to the existing condition.   | <i>This change is recommended to correct a typographical error.</i>  |   |   |
| Q   | Chapter 4 (D)<br>(1)(a)(2)<br>Page 54       | Aquaculture   | 2) Aquaculture facilities should be designed and located to prevent the spread <u>of</u> disease to native aquatic life, significant ecological impacts caused by new nonnative species, or significant impacts on the shorelines' aesthetic qualities.   | <i>This change is recommended to correct a typographical error.</i>  |   |   |
| R   | Chapter 4 (D)<br>(2) (c) (3) (j)<br>Page 57 | Boating<br>Facilities<br>Regulations                          | <del>The</del> <u>All facilities</u> must have provisions available for cleanup of accidental contaminants <u>and</u> spills.   | <i>These changes are recommended for clarity and to correct typographical errors.</i>  |   |   |
| S   | Chapter 4 (D)<br>(2) (c) (4) (b)<br>Page 57 | Boating<br>Facilities<br>Regulations                          | Public launch ramps shall <del>;</del> be located only on stable shorelines where feasible and where water depths are adequate to eliminate or minimize the need for dredging, filling, beach enhancement, or other maintenance activities.   | <i>This change is recommended to correct a typographical error.</i>  |   |   |
| T   | Chapter 4 (D)<br>(3) (c) (4)<br>Page 59     | Commercial<br>Development<br>Regulations                      | All commercial loading and service areas shall be located or screened to minimize adverse impacts, including visual impacts, to the shoreline environment <del>designation</del> .  | <i>This change is recommended to delete unneeded words for readability and clarity; shoreline designations have nothing to do with this provision.</i>   |   |   |
| U   | Chapter 4 (D)<br>(4) (c) (5)<br>Page 60     | Parking<br>Regulations  | Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Exterior parking facilities for nonresidential uses shall be landscaped <del>with</del> to provide an effective "full-screen" within three (3) years of project completion when viewed from adjacent areas within shoreline jurisdiction.   | <i>This change is recommended to correct a typographical error.</i>  |   |   |
| V   | Chapter 4 (D)<br>(5) (c) (1)                | Recreational<br>Development<br>Regulations                    | All structures associated with a recreational use, except water dependent structures, such as docks and boardwalks and limited water enjoyment structures such as open viewing platforms and benches, shall maintain a standard setback from the OHWM per Table II.   | <i>These changes are recommended for clarity and to correct a typographical error.</i>   |   |   |

| ITEM                                | SMP PROVISION                            | TOPIC   | BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strike-through-deletions</del> ]  | ECOLOGY - DISCUSSION/RATIONALE   |                       |                         |            |             |         |             |  |  |  |  |  |                     |   |                |                |                |   |                                     |   |   |   |   |                |  |
|-------------------------------------|--|---|---|--|-----------------------|-------------------------|------------|-------------|---------|-------------|--|--|--|--|--|---------------------|---|----------------|----------------|----------------|---|-------------------------------------|---|---|---|---|----------------|--|
|                                     | Page 62                                  |   | However, existing structures may be replaced in their current location and configuration to the extent allowed by the Nonconforming Development provisions of Chapter 6, Section F, and state and federal agencies with jurisdiction. Any further setback reduction shall require approval of a setback reduction pursuant to <a href="#">Table II in</a> this Chapter or a shoreline variance <del>application</del> .   |  |                       |                         |            |             |         |             |  |  |  |  |  |                     |   |                |                |                |   |                                     |   |   |   |   |                |  |
| <b>W</b>                            | Chapter 4 (D)<br>(5) (c) (3)<br>Page 62  | Recreational<br>Development<br>Regulations  | Water-dependent or water-related activities such as swimming, boating, and fishing, and activities that benefit from waterfront scenery, such as picnicking, hiking and bicycling, shall be emphasized in planning public and private (excluding residential) noncommercial recreation sites in <del>the shoreline</del> <del>corridor</del> <del>areas</del> .   | <i>This change is recommended for consistent use of terms throughout the SMP. It is unclear what constitutes the "shoreline corridor".</i>   |                       |                         |            |             |         |             |  |  |  |  |  |                     |   |                |                |                |   |                                     |   |   |   |   |                |  |
| <b>X</b>                            | Chapter 4 (D)<br>(7) (c) (4)<br>Page 66  | Signs<br>Regulations  | Temporary <a href="#">signs</a> shall be removed subject to the requirements of LMC Section 18A.50.665 - Signs for Temporary Display. Examples of temporary signs can include real estate signs, directions to events, political advertisements, event or holiday signs, and construction signs.  | <i>This change is recommended to correct a typographical error.</i>  |                       |                         |            |             |         |             |  |  |  |  |  |                     |   |                |                |                |   |                                     |   |   |   |   |                |  |
| <b>Y</b>                            | Chapter 4 (D)<br>(7) (c) (5)<br>Page 67  | Signs<br>Regulations  | Signs that do not meet the policies and regulations of this program shall be removed or required to conform within two (2) years of the SMP's <del>adoption</del> <a href="#">effective date</a> .  | <i>This change is recommended because "date of adoption" is unclear. Is this the date the City adopted resolution 2013-07, the date the State approved the SMP with changes, or the date the City adopts an ordinance reflecting the State's changes? Effective date has less uncertainty.</i> |                       |                         |            |             |         |             |  |  |  |  |  |                     |   |                |                |                |   |                                     |   |   |   |   |                |  |
| <b>Z</b>                            | Chapter 4 (D)<br>(8) (c) (7)<br>Page 68  | Trails<br>Regulations   | Trails shall be subject to other specific conditions as described in <del>a</del> <a href="#">the applicable</a> trail or parks plan.   | <i>This change is recommended for clarity and specificity.</i>   |                       |                         |            |             |         |             |  |  |  |  |  |                     |   |                |                |                |   |                                     |   |   |   |   |                |  |
| <b>AA</b>                           | Chapter 4 (D)<br>(10) (c) (6)<br>Page 71 | Utilities<br>(Primary)<br>Regulations   | Solid waste disposal sites and facilities are prohibited in <a href="#">all</a> <del>the</del> shoreline environment designations.  | <i>This change is recommended for clarity and specificity.</i>   |                       |                         |            |             |         |             |  |  |  |  |  |                     |   |                |                |                |   |                                     |   |   |   |   |                |  |
| <b>BB</b>                           | Chapter 5 (A)<br>Page 75                 | Shoreline<br>Modification<br>Provisions<br><br>Introduction<br>and<br>Applicability | This chapter has been divided into four sections: Shoreline Stabilization, Dredging and Disposal, <a href="#">Fill</a> , and Overwater Structures and Launching Facilities.   | <i>This change is recommended for clarity and accuracy; the statement suggests there are four sections but only three are listed and the fourth (fill) is left out.</i>  |                       |                         |            |             |         |             |  |  |  |  |  |                     |   |                |                |                |   |                                     |   |   |   |   |                |  |
| <b>CC</b>                           | Chapter 5 (B)<br>Page 76                 | Table IV<br>Permitted<br>Shoreline<br>Modifications                                 | <table border="1"> <thead> <tr> <th>SHORELINE MODIFICATION</th> <th>Shoreline Residential</th> <th>Urban-Stream Protection</th> <th>Urban Park</th> <th>Conservancy</th> <th>Natural</th> </tr> </thead> <tbody> <tr> <td><b>FILL</b></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Fill Upland of OHWM</td> <td>P</td> <td>P<sup>1</sup></td> <td>P<sup>1</sup></td> <td>C<sup>1</sup></td> <td>X</td> </tr> <tr> <td>Fill Waterward of OHWM<sup>2</sup></td> <td>C</td> <td>C</td> <td>C</td> <td>X</td> <td>C<sup>2</sup></td> </tr> </tbody> </table> | SHORELINE MODIFICATION   | Shoreline Residential | Urban-Stream Protection | Urban Park | Conservancy | Natural | <b>FILL</b> |  |  |  |  |  | Fill Upland of OHWM | P | P <sup>1</sup> | P <sup>1</sup> | C <sup>1</sup> | X | Fill Waterward of OHWM <sup>2</sup> | C | C | C | X | C <sup>2</sup> | <p><i>The first change is recommended because footnote 2 already applies to all of the shoreline environment designations by its inclusion in the first column.</i></p> <p><i>The second change (addition to footnote 2) is recommended to recognize text in the named section (Section C(4)(c)(2) in Chapter 5) that allows small scale fill waterward of the OHWM without a CUP.</i></p> |
| SHORELINE MODIFICATION              | Shoreline Residential                    | Urban-Stream Protection   | Urban Park  | Conservancy  | Natural               |                         |            |             |         |             |  |  |  |  |  |                     |   |                |                |                |   |                                     |   |   |   |   |                |  |
| <b>FILL</b>                         |  |   |   |  |                       |                         |            |             |         |             |  |  |  |  |  |                     |   |                |                |                |   |                                     |   |   |   |   |                |  |
| Fill Upland of OHWM                 | P  | P <sup>1</sup>  | P <sup>1</sup>  | C <sup>1</sup>   | X                     |                         |            |             |         |             |  |  |  |  |  |                     |   |                |                |                |   |                                     |   |   |   |   |                |  |
| Fill Waterward of OHWM <sup>2</sup> | C  | C   | C   | X  | C <sup>2</sup>        |                         |            |             |         |             |  |  |  |  |  |                     |   |                |                |                |   |                                     |   |   |   |   |                |  |

| ITEM   | SMP PROVISION  | TOPIC   | BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strike-through-deletions</del> ]  | ECOLOGY - DISCUSSION/RATIONALE  |                       |                         |            |             |         |                                   |  |  |  |  |  |  |   |   |   |   |   |  |
|--|--|---|---|---|-----------------------|-------------------------|------------|-------------|---------|-----------------------------------|--|--|--|--|--|--|---|---|---|---|---|--|
|  |  |   | <p><sup>2</sup> Dredging and fill waterward of the OHWM occur in the Aquatic shoreline environment designation by definition, but are regulated based on the adjacent upland shoreline environment designation. In the shoreline environment designations where they are allowed, fill waterward of the OHWM and dredging are only permitted in limited situations. See Chapter 5, Section C(3) and (4) for additional restrictions and requirements. <a href="#">Small scale beach restoration utilizing up to or less than twenty-five (25) cubic yards of material is permitted waterward of the OHWM without a CUP. See Chapter 5, Section C(4)(c)(2).</a></p>  |   |                       |                         |            |             |         |                                   |  |  |  |  |  |  |   |   |   |   |   |  |
| DD   | Chapter 5 (B)<br>Page 76   | Table IV<br>Permitted<br>Shoreline<br>Modifications | <table border="1"> <thead> <tr> <th data-bbox="612 537 803 623">SHORELINE MODIFICATION</th> <th data-bbox="803 537 948 623">Shoreline Residential</th> <th data-bbox="948 537 1094 623">Urban-Stream Protection</th> <th data-bbox="1094 537 1225 623">Urban Park</th> <th data-bbox="1225 537 1381 623">Conservancy</th> <th data-bbox="1381 537 1499 623">Natural</th> </tr> </thead> <tbody> <tr> <td data-bbox="612 623 803 716">OVERWATER AND IN-WATER STRUCTURES</td> <td data-bbox="803 623 948 716"></td> <td data-bbox="948 623 1094 716"></td> <td data-bbox="1094 623 1225 716"></td> <td data-bbox="1225 623 1381 716"></td> <td data-bbox="1381 623 1499 716"></td> </tr> <tr> <td data-bbox="612 716 803 773">Boat <del>Ramp</del><br/><a href="#">Launch</a></td> <td data-bbox="803 716 948 773">C</td> <td data-bbox="948 716 1094 773">X</td> <td data-bbox="1094 716 1225 773">C</td> <td data-bbox="1225 716 1381 773">X</td> <td data-bbox="1381 716 1499 773">X</td> </tr> </tbody> </table>  | SHORELINE MODIFICATION  | Shoreline Residential | Urban-Stream Protection | Urban Park | Conservancy | Natural | OVERWATER AND IN-WATER STRUCTURES |  |  |  |  |  | Boat <del>Ramp</del><br><a href="#">Launch</a> | C | X | C | X | X | <p><i>This change is recommended for consistency with Table I on page 45; Table I refers to these facilities as boat launches not boat ramps. The text in Chapter 5 Section C(5) also uses the language boat launch and occasionally launch ramp, but never boat ramp.</i></p> |
| SHORELINE MODIFICATION                         | Shoreline Residential  | Urban-Stream Protection                             | Urban Park  | Conservancy   | Natural               |                         |            |             |         |                                   |  |  |  |  |  |  |   |   |   |   |   |  |
| OVERWATER AND IN-WATER STRUCTURES              |  |   |   |   |                       |                         |            |             |         |                                   |  |  |  |  |  |  |   |   |   |   |   |  |
| Boat <del>Ramp</del><br><a href="#">Launch</a> | C  | X   | C   | X   | X                     |                         |            |             |         |                                   |  |  |  |  |  |  |   |   |   |   |   |  |
| EE   | Chapter 5 (C)<br>(1) (a)<br>Page 77  | General Policies and Regulations Applicability      | <p>The following provisions apply to all shoreline modifications whether such proposal address<u>es</u> a single property or multiple properties. Additional requirements as contained in other Chapters of this SMP apply. Where a general standard, environmental standard or use standard conflicts with the provisions contained in this chapter, the more restrictive shall apply.</p>   | <p><i>This change is recommended to correct a typographical error.</i></p>  |                       |                         |            |             |         |                                   |  |  |  |  |  |  |   |   |   |   |   |  |
| FF   | Chapter 5 (C)<br>(2) (c)<br>Shoreline Stabilization – Soil Bioengineering Regulations (2) and (3)<br>Page 85 | Shoreline Stabilization Regulations                 | <p>2) Except where more restrictive or specific Critical Area and Resource Lands Regulations apply, all cleared areas shall be replanted immediately following construction and irrigat<u>ed</u> (if necessary) to ensure that within three (3) years all vegetation is one hundred percent (100%) reestablished to achieve no net loss of ecological functions of the shoreline area. Areas that fail to reestablish vegetation adequately shall be replanted <a href="#">by the applicant</a> with approved plant materials until the plantings are viable. The Shoreline Administrator may establish additional performance standards in <del>administrative rules permit conditions based on the project site and nature of the proposal.</del></p> <p>3) <a href="#">Any bioengineered b</a>Bank stabilization <a href="#">and replanted areas as required by Regulation 2 above in the form of a vegetated buffer zone</a> shall be maintained (<del>e.g., weeding, watering, dead-plant replacement</del>) <a href="#">in the form of a buffer zone</a> for a minimum of three (3) years. The buffer zone shall exclude activities that could disturb the site. Where determined necessary by the Shoreline Administrator, fencing may be required to ensure protection of</p> | <p><i>These changes are recommended for readability and clarity; these two provisions appear to basically be saying the same thing and both were generally unclear and lacked specificity. Ecology reads these provisions as requiring a buffer from and maintenance of bioengineered areas for a minimum of 3 years.</i></p> |                       |                         |            |             |         |                                   |  |  |  |  |  |  |   |   |   |   |   |  |

| ITEM             | SMP PROVISION   | TOPIC  | BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>striketrough-deletions</del> ]  | ECOLOGY - DISCUSSION/RATIONALE   |
|------------------|---|--|---|--|
|                  |   |  | <p><del>buffer</del> plantings.</p>   |  |
| <p><b>GG</b></p> | <p>Chapter 5 (C)<br/>(2) (c)<br/>Shoreline<br/>Stabilization –<br/>Bulkheads<br/>Regulation (5)<br/>Page 86</p> | <p>Shoreline<br/>Stabilization<br/>Regulations</p>   | <p><del>5) Replacement bulkheads may be permitted if there is a demonstrated need to protect principal uses or structures from erosion caused by waves provided that:</del><br/> <del>a. The replacement bulkhead is designed, located, sized, and constructed to assure no net loss of ecological functions;</del><br/> <del>b. The existing bulkhead is removed; and</del><br/> <del>c. The proposal includes a report prepared by a geotechnical engineer that evaluates the necessity of the bulkhead and design consistent with Regulation 2 and 3 and mitigation sequencing.</del></p> <p><u>Renumber remainder of section as necessary.</u></p>  | <p><i>This change is recommended for readability and clarity; this provision repeats provisions 1 through 3 on page 82 (Shoreline Stabilization – Replacement and Repair regulations) and is less clear and succinct than those provisions.</i></p>  |
| <p><b>HH</b></p> | <p>Chapter 5 (C)<br/>(2) (c)<br/>Shoreline<br/>Stabilization –<br/>Bulkheads<br/>Regulation (8)<br/>Page 86</p> | <p>Shoreline<br/>Stabilization<br/>Regulations</p>   | <p>Fill behind bulkheads shall be limited to an average of one (1) cubic yard per linear foot of bulkhead. Any filling in excess of this amount shall be <del>considered a regulated activity</del> subject to the policies and regulations in this SMP pertaining to fill activities, <del>Substantial Development Permits, and CUP where required.</del></p>  | <p><i>This change is recommended for clarity; all of these activities are regulated activities. Additionally, referring to the fill section of the SMP is sufficient to alert users that fill in excess of this threshold will trigger other requirements. The references to permitting are vague, unnecessary, and potentially inconsistent with other portions of the SMP.</i></p>   |
| <p><b>II</b></p> | <p>Chapter 5 (C)<br/>(4) (c) (7) and<br/>(8)<br/>Page 91</p>  | <p>Fill Regulations</p>  | <p>7) Any placement or removal of materials landward of the OHWM shall comply with the Vegetation Conservation <u>and Critical Area</u> provisions of this SMP.<br/> <u>8) Fill for the purpose of raising the average grade level is prohibited.</u></p>   | <p><i>These changes are recommended for clarity and internal consistency.</i></p>  |
| <p><b>JJ</b></p> | <p>Chapter 5 (C)<br/>(5) (d) Table V<br/>Page 97</p>  | <p>Overwater<br/>Structures and<br/>Launching<br/>Facilities<br/>Regulations –<br/>Docks, Piers<br/>and Moorage<br/>Structures<br/>Table V<br/>Footnotes</p> | <p><sup>2</sup> The proposed length must be the minimum necessary to support the intended use. The total dock length includes approach ramp and floating element(s). If eleven (11) foot average water depth is reached within twenty (20) feet of the approach ramp for a dock, a floating element will be permitted, not to exceed the maximum length standard. A dock or pier may exceed the maximum length <u>with a shoreline variance</u>, provided a report prepared by a qualified professional that includes verifiable survey information demonstrating the average water depth of eleven (11) feet is not attainable within the maximum length allowed from the OHWM. Existing public piers may be repaired or replaced to their previous length.<br/> <sup>3</sup> Includes all walkways and additional fingers. The maximum width of a ramp connecting a pier to a float should be minimized to the maximum extent practical <u>and should not exceed 4 feet in width</u>. On Lake Steilacoom only, pier and dock primary walkways or decks must be fully grated or contain other materials that allow <u>a minimum of light transmittance through</u> between <del>forty percent (40%)</del> <u>thirty and fifty percent (30%-50%) of the material, depending on the pier or float width</u>, <del>through the material. If float tubs for docks or floats preclude use of fully grated decking material, then a minimum two (2) foot</del></p> | <p><i>The first change to footnote 2 is recommended to remind the user that any relief from bulk or dimensional standards requires a shoreline variance. The second change is recommended to correct a grammatical error.</i></p> <p><i>The changes to footnote 3 are suggested to align standards in the SMP with those in the most recent version (version 4) of the Draft Hydraulic Code Rules, Chapter 220-110, which rule is currently being updated by the Washington State Department of Fish and Wildlife (WDFW). The draft rule as currently written would require that ramps not exceed 4 feet in width and be decked entirely with grating, piers greater than 4 feet wide (up to six feet in width) have a minimum 30% functional grating, and that dock floats six feet wide or less have at least 30% functional grating and floats between 6 and 8 feet have at least 50% functional grating on the deck surface. Flootation can be located under the solid decked area only. Functional grating is defined as “the percent open area of the grating that is not covered or blocked by any objects such as structural components, framing wood, flotation tubs, or objects placed on the surface of the grating”.</i></p> |

| ITEM | SMP PROVISION                               | TOPIC  | BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>striketrough-deletions</del> ]   | ECOLOGY - DISCUSSION/RATIONALE   |
|------|---|--|--|--|
| KK   | Chapter 5 (C)<br>(5) (g) (4)<br>Page 98     | Overwater Structures and Launching Facilities<br>Regulations – Boat Launches (Rails and Ramps) | <p><del>strip of grating down the center of the entire dock or float shall be provided.</del></p> <p>Launching ramps may be permitted as a conditional use for recreational uses <u>or when</u> serving more than four (4) residential units in the Shoreline Residential or Urban Park environment. The applicant shall demonstrate that the proposed length of the ramp is the minimum necessary to safely launch the intended craft and comply with all regulations as stipulated by state and federal agencies, local tribes, or others that have jurisdiction. In no case shall the ramp extend beyond the point where the water depth is eight (8) feet below the OHWM.</p>  | <p><i>This change is recommended for clarity; as written this provision is unclear. This change would align this text with Tables I and IV.</i></p>  |
| LL   | Chapter 5 (C)<br>(5) (g) (6)-(9)<br>Page 99 | Overwater Structures and Launching Facilities<br>Regulations – Boat Launches (Rails and Ramps) | <p>6) Location Standards - <del>Boat launches</del> <u>Launch ramps and launching rails</u> shall be sited so that they do not significantly damage fish and wildlife habitats and shall not occur in areas with native emergent vegetation. Removal of native upland vegetation shall be minimized to the greatest extent feasible. All facilities shall be sited and designed per required mitigation sequencing.</p> <p>7) Where feasible, launch ramps <u>and launching rails</u> shall be located only on stable shorelines where water depths are adequate to eliminate or minimize the need for dredging, filling, beach enhancement or other maintenance activities.</p> <p>8) The design shall comply with all regulations as stipulated by state and federal agencies, affected tribes, or other agencies with jurisdiction.</p> <p><del>9) The applicant shall demonstrate that the proposed length of a boat launch is the minimum necessary to launch the intended craft safely. In no case shall the ramp extend beyond the point where the water depth is eight (8) feet below the OHWM, unless the Shoreline Administrator determines that a greater depth is needed for a public boat launch facility.</del></p>              | <p><i>These changes are recommended for consistent use of terminology throughout the document; see also recommended change DD. In addition, provision 9 is recommended for deletion as it repeats the exact same information in provision 4. Launches extending beyond 8 feet deep require a variance.</i></p> |
| MM   | Chapter 6 (A)<br>Page 101                   | Administration Purpose and Applicability   | <p>There is hereby established an administrative system designed to assign responsibilities for implementation of the SMP and shoreline permit review, to prescribe an orderly process by which to review proposals and permit applications, and to ensure that all persons affected by this SMP are treated in a fair and equitable manner. All proposed shoreline uses and development, including those that do not require a shoreline permit, must conform to the SMA and to the policies and regulations of this SMP.</p> <p><u>The SMP shall apply to every person, individual, firm, partnership, association, organization, corporation, local or state governmental agency, public or municipal corporation, or other non-federal entity which develops, owns, leases or administers lands, wetlands, or waters that fall under the jurisdiction of the Act. The permit requirements established under the SMP apply to all nonfederal activities, and to development and uses undertaken on lands not federally owned but under lease, easement, license or other similar property right of the federal government. Nothing in this SMP shall affect and rights established by treaty to which the United States is a party.</u></p> | <p><i>This change is required to recognize to whom or which organizations, agencies, etc. the SMP applies.</i></p>   |

| ITEM | SMP PROVISION                        | TOPIC  | BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>striketrough-deletions</del> ]  | ECOLOGY - DISCUSSION/RATIONALE  |
|------|--------------------------------------|--|---|---|
| NN   | Chapter 6 (C)<br>(2) (f)<br>Page 104 | Administration<br>Substantial<br>Development                           | Local Appeal. All decisions of the Shoreline Administrator may be appealed to the Hearing Examiner pursuant to Chapter <del>14</del> <u>18</u> A.02 LMC and related provisions. Any party may also appeal a substantial development permit, CUP, or variance to the Shoreline Hearings Board as provided by RCW 90.58.180 without first exhausting any local appeal opportunity. The decision of the Hearing Examiner may also be appealed to the Shoreline Hearings Board.   | <i>This change is recommended because there does not appear to be a Chapter 14A.02 in the Lakewood Municipal Code (LMC). Ecology supposes this was intended to reference Chapter 18A.02 of the LMC.</i> |
| OO   | Chapter 6 (D)<br>(2) (a)<br>Page 106 | Administration<br>Variances and<br>Conditional Use<br>Permits          | The purpose of a CUP is to allow flexibility in the application of use regulations of the SMP in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the City or Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the SMA and this SMP. <del>Uses that are specifically prohibited by this SMP shall not be authorized with a CUP.</del>   | <i>This change is recommended because the exact same sentence is on the following page as criteria number 4.</i>  |
| PP   | Chapter 6 (F)<br>(1)<br>Page 107     | Administration<br>Nonconforming<br>Use and<br>Development<br>Standards | "Nonconforming use or development" means a shoreline use or development which was lawfully constructed or established prior to the effective date of the SMA or this SMP, or amendments thereto, but which does not conform to present regulations or standards of this SMP. Nonconforming uses are also subject to LMC Section 18A.2.830. Where the standards in this Section are more specific or conflict with the standards in LMC Section 18A. <u>02</u> .830, the standard in this Section shall apply. Where the standards contained in this Section do not address an issue related to nonconforming development, the standards contained in LMC Section 18A. <u>02</u> .830 shall apply. | <i>These changes are recommended to correct typographical errors.</i>   |
| QQ   | Chapter 7<br>Page 116                | Definitions  | <del>Covered moorage</del> - Boat moorage, without solid walls, that has a solid roof to protect the vessel and is attached to the dock itself or the substrate of the lake. <del>See moorage cover.</del>  | <i>This change is recommended because moorage cover is not defined.</i>   |
| RR   | Chapter 7<br>Page 116                | Definitions  | <del>CUP—see Conditional Use Permit.</del>  | <i>This change (deletion) is suggested because Conditional Use Permit is not defined.</i>   |
| SS   | Chapter 7<br>Page 121                | Definitions  | <b>Lake</b> - A body of standing water in a depression of land or expanded part of a river, including, but not limited to, reservoirs of twenty (20) acres or greater in total area. A lake is bounded by the OHWM or, where a stream enters a lake, the extension of the elevation of the lake's OHWM within the stream ( <del>See RCW 90.58.030(1d)</del> ; WAC 173-20-030; WAC 173-22-030(4)).   | <i>This change is recommended because the cited section of the RCW defines the term "local government" and it is not clear how this relates to the definition of lake.</i>                              |
| TT   | Chapter 7<br>Page 122                | Definitions  | <u>Lot Width - The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot lines, except that portion of a flag lot that usually forms an extended access way to a street right-of-way.</u>   | <i>This change is recommended because lot width is a standard used in the SMP and how it is measured is never defined. Ecology received two phone calls from citizens asking this question.</i>         |
| UU   | Chapter 7<br>Page 127                | Definitions  | <b>Shoreline jurisdiction</b> - All of the geographic areas covered by the SMA, related rules and the applicable SMP. In the City, shoreline jurisdiction includes American Lake, Gravelly Lake, Lake Louise, Lake Steilacoom, Waughop Lake, Chambers Creek, and Clover Creek, those areas within two hundred (200) feet of the OHWM of these water bodies, and any associated wetlands. See definitions of Shorelines, Shorelines of the state, Shorelines of statewide significance, Shorelands, and Wetlands <del>7</del> .  | <i>This change is recommended to correct a typographical error.</i>   |

| ITEM      | SMP PROVISION         | TOPIC       | BILL FORMAT CHANGES [ <u>underline-additions</u> ; <del>strike-through</del> -deletions]  | ECOLOGY - DISCUSSION/RATIONALE   |
|-----------|-----------------------|-------------|---|--|
| <b>VV</b> | Chapter 7<br>Page 127 | Definitions | <p><b>Shoreline Master Program (SMP)</b> - The comprehensive use plan and related use regulations used by local governments to administer and enforce the permit system for shoreline management. SMPs must be developed in accordance with the policies of the SMA, be approved and adopted by the state, and be consistent with the rules (<u>WACs</u>) adopted by Ecology.</p> <p><b>Shoreline Master Program Guidelines</b> - The Shoreline Master Program (SMP) Guidelines are state standards which local governments must follow in drafting their shoreline master programs. The Guidelines translate the broad policies of the Shoreline Management Act (RCW 90.58.020) into standards for regulation of shoreline uses. <a href="#">The Guidelines are found in WAC 173-26, Part III.</a></p> | <i>These changes are recommended to correct typographical errors and for clarity. The rule, the standards and many other references are made to the Guidelines without actually telling the user where to find them.</i> |
| <b>WW</b> | Chapter 7<br>Page 128 | Definitions | <p><b>Single-family residence</b> - A detached dwelling designed for and occupied by one (1) family including those structures and developments within a contiguous ownership which are a normal appurtenance (See <a href="#">Chapter 4, Section D(6)(c)(11)</a><del>WAC 173-27-040(2g)</del>).</p>  | <i>This change is recommended because the City has chosen to expand the list of normal appurtenances for purposes of the SMP, as authorized in WAC 173-27-040 (2)(g).</i>  |
| <b>XX</b> | Chapter 7<br>Page 128 | Definitions | <p><b>Soil bioengineering</b> - An applied science that combines structural<del>e</del>, biological and ecological concepts to construct living structures that stabilizes <del>the</del> soils to control erosion, sedimentation and flooding using live plant materials as a main structural component.</p>   | <i>These changes are recommended to correct typographical and grammatical errors.</i>  |

City of Lakewood  
Grant No. G1000045

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



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*DATE: May 6, 2014 (Responsive to DOE Comments)*



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# Acknowledgments:

City of Lakewood Citizens

City of Lakewood Planning Advisory Board

City of Lakewood City Council

City of Lakewood

Grant No. G1000045

Shoreline Master Program

*Environment Designations, Policies, and Regulations*

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# Chapter 1 Introduction

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

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

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

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

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

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

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

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

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

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

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

The purposes of this SMP are:

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

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

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

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

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

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

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

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

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

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

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

This SMP is divided into seven chapters:

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

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

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

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

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

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

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

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

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

## **G. Title**

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

# Chapter 2 Shoreline Environments

## A. Introduction to Shoreline Environment Designations

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

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

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

## B. Need for Consistency

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

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

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

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

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

## C. City of Lakewood Shoreline Jurisdiction

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

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

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

## **D. City of Lakewood Shoreline Environment Designations**

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

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

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

Please see Figure 1 for the Shoreline Environment Designations Map.

## **E. Shoreline Areas Not Mapped or Designated**

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

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

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

#### **a) Purpose**

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

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

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

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

##### 1) Description

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

##### 2) Rationale

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

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

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

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

#### **e) Regulations**

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

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

#### **a) Purpose**

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

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

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

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

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

### **c) Designated Areas**

- 1) Description

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

- 2) Rationale

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

### **d) Management Policies**

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

### **e) Regulations**

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

## **3. Urban Park Environment**

### **a) Purpose**

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

### **b) Designation Criteria**

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

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

### **c) Designated Areas**

- 1) Description

Urban Park environment areas include:

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

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

2) Rationale

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

**d) Management Policies**

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

#### **e) Regulations**

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

### **4. Conservancy Environment**

#### **a) Purpose**

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

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

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

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

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

- 1) Description

Conservancy environment areas include:

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

2) Rationale

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

**d) Management Policies**

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

**e) Regulations**

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

## **5. Natural Environment**

### **a) Purpose**

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

### **b) Designation Criteria**

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

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

### **c) Designated Areas**

- 1) Description

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

- 2) Rationale

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

### **d) Management Policies**

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

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

**e) Regulations**

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

## **6. Aquatic Environment**

### **a) Purpose**

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

### **b) Designation Criteria**

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

### **c) Designated Areas**

#### 1) Description

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

#### 2) Rationale

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

### **d) Management Policies**

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

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

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

**e) Regulations**

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

# Chapter 3    General Shoreline Provisions

## A.    Introduction

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

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

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

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

## **B. Policies and Regulations**

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

#### **a) Applicability**

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

#### **b) Policies**

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

#### **c) Regulations**

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

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

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

### **a) Applicability**

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

### **b) Policies**

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

### **c) Regulations**

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

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

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

### **3. Critical Areas**

Critical areas in shoreline jurisdiction are regulated by this SMP. As such, the Critical Areas and Natural Resource Lands Regulations, Ordinance No. 362 3(part), 2004, codified under Chapter 14A of the LMC, is herein incorporated into this SMP with the exceptions and modifications noted below.

#### **a) Applicability**

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

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

- 3) Provisions of the Critical Areas and Natural Resource Lands Regulations that are inconsistent with the SMA and SMP Guidelines shall not apply or are specifically modified in shoreline jurisdiction, as follows:
- a. The provisions do not extend shoreline jurisdiction beyond the limits specified in Chapter 2, Section C of this SMP.
  - b. Provisions relating to exemptions in LMC Section 14A.142.070 and allowable activities such as those outlined in LMC Sections 14A.154.090 and 14A.162.090 do not relieve the applicant from obtaining a substantial development permit or other permit or approval required under this SMP, or meeting the specific requirements identified in other sections of the SMP, including, but not limited to, mitigation sequencing and the no net loss requirement.
  - c. Provisions that include a “reasonable use determination” shall not apply within shoreline jurisdiction. Specifically, LMC Sections 14A.142.080 and 14A.142.090 do not apply. Such uses and developments require a variance in accordance with Chapter 6 of this SMP.
  - d. Provisions relating to variance procedures and criteria do not apply in the shoreline jurisdiction. Specifically, LMC Section 14A.142.110, which references variance procedures in the LMC, does not apply. Variance procedures and criteria within shoreline jurisdiction have been established in this SMP, Chapter 6 Section C and in WAC 173-27-170.4.
  - e. Provisions relating to nonconforming uses in LMC Section 14A.142.180 shall not apply. Please see Chapter 6, Section F for nonconforming development standards within shoreline jurisdiction.
  - f. Geologically Hazardous Areas. Provisions contained in LMC Section 14A.146.000 are hereby clarified and amended.
    - i. New development and the creation of new lots through subdivision shall not be allowed when it would cause foreseeable risk from geological conditions to people or improvements during the life of the development.
    - ii. New development that would require structural shoreline stabilization over the anticipated life of the development shall not be allowed, unless stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result.
    - iii. All shoreline stabilization shall comply with Chapter 5, Section C(2).
  - g. Waughop Lake shall be subject to the setback requirements outlined in the SMP and not to the 35' buffer requirement in the LMC Section 14A.154.060(B).

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

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

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

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

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

## 4. Environmental Impacts and Mitigation Sequencing

### a) Applicability

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

### b) Policies

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

### c) Regulations

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

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

## **5. Public Access**

### **a) Applicability**

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

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

## **b) Policies**

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

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

### **c) Regulations**

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

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

- 11) Future actions by the applicant or other parties shall not diminish the usefulness or value of the public access site.
- 12) Physical public access shall be designed to prevent significant impacts to sensitive natural systems, follow the mitigation sequence identified in Chapter 3, Section B(4)(C)(4) and achieve no net loss of shoreline ecological function .
- 13) Where public access is to be provided by a trail the requirements contained in Chapter 4, Section (D)(8) shall apply.
- 14) Whenever financially feasible and practical, the City shall require the use of building materials and technologies whose production and use result in reduced environmental impacts when developing public access to the shoreline.
- 15) The Administrator may waive the requirement for public access where it is demonstrated to be infeasible due to reasons for incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other applicable legal limitations. In determining infeasibility, the Administrator shall consider alternate methods of providing public access such as offsite improvements, viewing platforms, separation of uses and restricting hours for public access.

## **6. Restoration**

### **a) Applicability**

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

### **b) System-Wide Restoration Policies**

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

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

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

**c) SMA Restoration Policies**

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

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

## 7. Shorelines of Statewide Significance

### a) Applicability

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

### b) Policies

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

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

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

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

### **a) Applicability**

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

### **b) Policies**

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

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

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

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

**c) Regulations**

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

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

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

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

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

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

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

### **a) Applicability**

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

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

### **b) Policies**

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

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

### **c) Regulations**

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

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

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

# Chapter 4 Shoreline Use Provisions

## A. Applicability

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

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

## B. General Policies

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

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

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

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

# 1. Shoreline Use Table

**Table I. Shoreline Uses**

**KEY**

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

**C** = Conditional Use

**X** = Prohibited

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

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

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

**KEY**

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

**C** = Conditional Use

**X** = Prohibited

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

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

**SHORELINE USE**

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

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

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

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

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

## 2. Shoreline Development Standards Table

Table II. Shoreline Development Standards

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

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

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

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

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

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

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

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

### 3. Flexible Shoreline Setback and Buffer Regulations

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

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

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

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

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

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

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

### **1. Aquaculture**

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

#### **a) Policies**

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

#### **b) Regulations**

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

### **2. Boating Facilities**

#### **a) Applicability**

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

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

## **b) Policies**

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

## **c) Regulations**

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

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

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

2) Facility Design.

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

3) Site Design and Operation.

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

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

- e. Design Standards.
  - i. Boat launches for non-motorized boats shall be constructed of gravel or other similar natural material.
  - ii. Preferred launch ramp designs for motorized boats, in order of priority, are:
    - a. Open grid designs with minimum coverage of lake substrate.
    - b. Seasonal ramps that can be removed and stored upland.
    - c. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in shoreline profile.
    - d. Standard concrete pads.

### **3. Commercial Development**

#### **a) Applicability**

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

#### **b) Policies**

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

#### **c) Regulations**

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

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

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

## **4. Parking**

### **a) Applicability**

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

### **b) Policies**

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

### **c) Regulations**

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

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

## **5. Recreational Development**

### **a) Applicability**

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

### **b) Policies**

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

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

**c) Regulations**

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

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

## **6. Residential Development**

### **a) Applicability**

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

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

### **b) Policies**

- 1) Residential development should be permitted only where there are adequate provisions for utilities, circulation, and access.
- 2) New development should provide adequate setbacks and natural buffers from the water and ample open space among structures to protect natural features, preserve views and minimize use conflicts.

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

**c) Regulations**

- 1) Residential development is a preferred use where it can be accommodated without significant impacts to the shoreline and shall be permitted in shoreline jurisdiction subject to the policies and regulations for the specific shoreline environment designation (see Chapter 4, Table II), underlying zoning regulations, and the general regulations in Chapter 3 of this SMP.
- 2) Structures or other development accessory to residential uses are permitted in shoreline jurisdiction, if allowed under all other applicable standards in this SMP and subject to the provisions of the City's zoning code.
- 3) All additions to residential structures must comply with all standards in this SMP, including required shoreline setbacks established in Chapter 4, Table II.
- 4) Nonconforming residential structures that are repaired, modified, replaced or enlarged are subject to the requirements in Chapter 6, Section F(2) (Administration - Nonconforming Use and Development Standards).
- 5) Accessory uses and appurtenant structures not specifically addressed in the SMP shall be subject to the same regulations as primary residences, including setbacks, with the exception of water-oriented accessory structures that comply with the impervious surface limits identified in Table II of this

Chapter. Water-oriented structures allowed in the setback include, but are not limited to, boathouses, gazebos, viewing platforms and decks.

- 6) In order to maintain visual access to the waterfront, all fences shall be set back a minimum of fifteen (15) feet from the OHWM.
- 7) To protect views and vistas maximum height limits have been established for each shoreline environment designation as indicated in Chapter 4, Table II.
- 8) The stormwater runoff for all new or expanded pavements or other impervious surfaces shall be directed to infiltration systems and other LID BMPs shall be incorporated into new development where feasible, in accordance with the City's adopted Surface Water Design Manual and the most recent edition of the Low Impact Development Technical Guidance Manual for Puget Sound.
- 9) LID stormwater facilities, such as swales and infiltration areas, may be located within the required shoreline setback area at the discretion of the Shoreline Administrator if no mature trees are removed.
- 10) Residential development, including land subdivision, shall result in no net loss of shoreline ecological functions. This includes meeting the no net loss standard at full build out of a subdivision or other development. Mitigation shall be provided as necessary to meet this requirement. Failure to meet this standard will result in permit denial. The City may request necessary studies by qualified professionals to determine compliance with this standard.
- 11) For the purposes of this section and WAC 173-27-040(2)(g), the following shall be considered a "normal appurtenance" to a single-family residence. Not all normal appurtenances are considered water oriented:
  - a. Garages
  - b. Decks
  - c. Driveways and parking areas
  - d. Utilities
  - e. Fences
  - f. Landscaping
  - g. Pathways, walkways and stairways
  - h. Swimming pools and spas

- i. Flagpoles
- j. Sheds up to two hundred (200) square feet
- k. Children's play equipment
- l. Fire Pits
- m. Sports courts
- n. Installation of a septic tank, drain field and grading which does not exceed two hundred fifty (250) cubic yards and which does not involve the placement of fill in any wetland or waterward of the OHWM (when permitted by Tacoma Pierce County Health Department, Pierce County Sewer Utility, and City policies and regulations).

## 7. Signs

### a) Applicability

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

### b) Policies

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

### c) Regulations

- 1) Signs shall comply with the City's sign regulations found in LMC Section 18A.50.600 - Sign Regulations in addition to the sign regulations in the SMP.
- 2) Sign plans and designs shall be submitted for review and approval at the time of shoreline permit approval.
- 3) All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.

- 4) Temporary signs shall be removed subject to the requirements of LMC Section 18A.50.665 - Signs for Temporary Display. Examples of temporary signs can include real estate signs, directions to events, political advertisements, event or holiday signs, and construction signs.
- 5) Signs that do not meet the policies and regulations of this program shall be removed or required to conform within two (2) years of the SMP's effective date.
- 6) The following types of signs may be allowed in all shoreline environment designations:
  - a. Water navigational signs and highway signs necessary for operation, safety, and direction.
  - b. Public information signs directly relating to a shoreline use or activity.
  - c. Off-premise, freestanding signs for community identification, information, or directional purposes.
  - d. Site and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.
- 7) The following signs are prohibited:
  - a. Off-premises freestanding outdoor advertising signs and billboards.
  - b. Spinners, streamers, pennants, flashing lights, and other animated signs used for commercial purposes.
  - c. Signs placed on trees or other natural features.
  - d. Commercial signs for products, services, or facilities located off-site.

## 8. Trails

### a) Applicability

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

## **b) Policies**

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

## **c) Regulations**

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

## **9. Transportation Facilities**

### **a) Applicability**

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

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

### **b) Policies**

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

### **c) Regulations**

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

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

## **10. Utilities (Primary)**

### **a) Applicability**

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

## **b) Policies**

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

## **c) Regulations**

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

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

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

### **a) Applicability**

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

### **b) Policies**

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

### **c) Regulations**

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

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

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# Chapter 5 Shoreline Modification Provisions

## A. Introduction and Applicability

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

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

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

## B. Table of Permitted Shoreline Modifications

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

**Table IV. Permitted Shoreline Modifications**

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

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

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

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

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

## **C. Policies and Regulations**

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

#### **a) Applicability**

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

#### **b) Policies**

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

#### **c) Regulations**

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

## 2. Shoreline Stabilization (Including Bulkheads)

### a) Applicability

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

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

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

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

#### Beach Restoration or Enhancement

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

#### Soil Bioengineering

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

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

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

### Bulkheads

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

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

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

### Groins

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

## **b) Policies**

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

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

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

## **c) Regulations**

### Shoreline Stabilization - General Requirements

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

### Shoreline Stabilization - New Development

- 1) New development, including land subdivision, shall, to the extent feasible, be located and designed to eliminate the need for concurrent or future shoreline stabilization and ensure no net loss of ecological function at full build-out. A geotechnical analysis of the site and shoreline characteristics

shall be required to assure that lots created through subdivision will not require shoreline stabilization in order for reasonable development to occur. New non-water dependent development that would require shoreline stabilization and cause significant adverse impacts to adjacent or down-current properties is prohibited.

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

#### Shoreline Stabilization - New or Expanded Measures

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

#### Shoreline Stabilization - Replacement and Repair

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

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

#### General Shoreline Stabilization - Design Requirements

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

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

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

#### Beach Restoration or Enhancement

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

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

#### Soil Bioengineering

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

#### Breakwaters

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

#### Bulkheads

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

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

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

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

#### **a) Applicability**

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any stream, or lake and associated shorelines, side channels, and wetlands. In a lake setting, dredging is normally done for specific purposes or uses such as deepening a navigational channel or obtaining bottom material.

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

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

#### **b) Policies**

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

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

**c) Regulations**

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

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

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

## **4. Fill**

### **a) Applicability**

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

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

## **b) Policies**

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

## **c) Regulations**

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

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

## **5. Overwater Structures and Launching Facilities**

### **a) Applicability**

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

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

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

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

## **b) Exemptions**

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

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

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

### c) General Policies

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

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

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

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

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

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

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

| <b>Standard</b>   | <b>Dock or Float</b>   | <b>Pier</b>  | <b>Moorage Pile or Buoy</b> |
|---|--|--|-----------------------------|
| Private Joint Use or Community Docks - Intensity of Use (Number of Slips) | One moorage for each 30 ft. of shoreline frontage up to 210 ft., plus one moorage for each additional 20 ft. | One moorage for each 30 ft. of shoreline frontage up to 210 ft., plus one moorage for each additional 20 ft. | N/A                         |

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

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

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

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

### **e) Regulations - Recreational Floats**

1) Recreational floats may be permitted, provided:

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

2) Recreational floats shall be designed and intended for swim use or other non-motorized use.

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

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

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

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

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

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

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

- 1) In-stream structures shall be minimized and shall only be allowed consistent with the provisions of the SMP, including mitigation sequencing and no net loss.
- 2) When allowed, in-stream structures shall be located, designed and operated to protect and preserve ecosystem-wide processes, ecological functions and cultural resources, including (but not limited to) fish passage, wildlife and water resources, critical areas, hydrogeological processes and natural scenic vistas.
- 3) The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species. In particular, this includes anadromous fish.

# Chapter 6 Administration

## A. Purpose and Applicability

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

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

## B. Shoreline Administrator

### 1. Authority

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

### 2. Duties

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

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

## **C. Substantial Development**

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

### **1. Exemptions**

- a) Developments, which are exempt from the requirement for a substantial development permit, are identified in WAC 173-27-040 or as subsequently amended.
- b) Applicants must apply for an exemption approval on forms provided by the City, pursuant to Chapter 18A.02 LMC. Applicants shall be required to submit information necessary to determine the exemption and compliance with the requirements of this SMP. Submittal requirements shall be established by administrative rule.
- c) Before determining that a proposal is exempt, the Shoreline Administrator may conduct a site inspection to ensure that the proposal meets the exemption criteria.
- d) All development, use, or activity that occurs within the shoreline jurisdiction is subject to the requirements of this SMP, regardless of whether a substantial development permit required.
- e) Exempt development may still require a variance or CUP. For example, exempt development that cannot meet the dimensional standards in this SMP will require a variance and certain uses are allowed in certain shoreline environment designations only upon approval of a CUP.
- f) The Administrator shall prepare a letter of exemption whenever a development is determined to be exempt from the Substantial Development permit requirements and the development is subject to one or more of the federal permit requirements outlined in WAC 173-27-050. The letter shall indicate the specific exemption that is being applied to the development and provide a summary of the City's analysis of the consistency of the project with the SMP.

### **2. Permit Process**

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

- b) Substantial development permits, CUPs, and variances are Process II applications and shall be processed and subject to the applicable regulations of Chapter 18A.02 LMC, as amended.
- c) Public Notice. A notice of application shall be issued for all shoreline permit applications as provided for in Chapter 18A.02 LMC, as amended, excepting that the public comment period for the notice of application for a shoreline permit shall be not less than thirty (30) days, per WAC 173-27-1 10(2)(e).
- d) Public Hearing. The Shoreline Administrator, at his or her discretion, may refer any shoreline application to the Hearing Examiner as a Process III application when the proposal could significantly impact another party or the proposal is of broad public concern. If a hearing is to be held on an application, notices of such a hearing shall include a statement that any person may submit oral or written comments on an application at the hearing.
- e) Application review. The Shoreline Administrator shall make decisions on applications for substantial development permits, CUPs, and variances based upon:
  - 1) The policies and procedures of the SMA and related sections of the WAC;
  - 2) Any public comment received on the application as it relates to compliance with the requirements of the SMA or this SMP; and
  - 3) This SMP.
- f) Local Appeal. All decisions of the Shoreline Administrator may be appealed to the Hearing Examiner pursuant to Chapter 18A.02 LMC and related provisions. Any party may also appeal a substantial development permit, CUP, or variance to the Shoreline Hearings Board as provided by RCW 90.58.180 without first exhausting any local appeal opportunity. The decision of the Hearing Examiner may also be appealed to the Shoreline Hearings Board.
- g) Filing with Ecology. All applications for a permit or permit revision shall be submitted to Ecology, as required by WAC 173-27-130 or as subsequently amended. After City approval of a CUP or Variance, the City shall submit the permit to the Ecology for approval, approval with conditions, or denial, as provided in WAC 173-27-200. Ecology shall transmit its final decision to the City and the applicant within thirty (30) calendar days of the date of submittal by the City. Permit revisions shall comply with the revision approval criteria and process provided in WAC 173-27-100.
- h) Hold on Construction. Each permit issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of filing with Ecology, per WAC 173-27-190 or as subsequently amended. “Date of filing” of the City’s final decision on Substantial Development Permits differs from date of filing for a CUP or variance. In the case of a substantial development permit, the date of filing is the date Ecology actually receives the

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

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

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

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

### **1. Shoreline Variance**

#### **a) Purpose**

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

#### **b) Application**

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

### c) Criteria for Granting Variances

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

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

### **a) Purpose**

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

### **b) Application**

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

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

- 1) Uses classified as conditional uses in the SMP may be authorized, provided the applicant demonstrates all of the following conditional use criteria as listed in WAC 173-27-160:
  - a. That the proposed use is consistent with the policies of RCW 90.58.020 and the SMP;
  - b. That the proposed use will not interfere with the normal public use of public shorelines;
  - c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Comprehensive Plan and this SMP;
  - d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
  - e. That the public interest suffers no substantial detrimental effect.
- 2) In the granting of all CUPs, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if CUPs were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.
- 3) Other uses, which are not classified or set forth in this SMP, may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the SMP.

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

## **E. Appeals to the Shoreline Hearings Board**

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

## **F. Nonconforming Use and Development Standards**

### **1. Applicability**

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

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

#### **a) Structures**

- 1) Upland structures that were legally established and are used for a conforming use, but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density may be maintained and repaired and may be modified or expanded provided that said modification or expansion does not increase the extent of nonconformity by further encroaching upon, extending into, or expanding the area within areas where construction or use would not be allowed for new development or uses. Modification or addition to a nonconforming structure shall not increase the building footprint lying within the required setback area.
- 2) A nonconforming upland structure that is unintentionally damaged may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, regardless of degree of damage, provided that application is made for the permits necessary to restore the structure within two (2) years of the date the damage occurred and all permits or authorizations are obtained within three (3) years.

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

**b) Uses**

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

**c) Sites or Lots**

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

## **G. Enforcement and Penalties**

### **1. General Provisions**

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

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

## 2. Administrative Orders

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

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

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

### **3. Suspension and Revocation**

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

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

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

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

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

## **J. Severability**

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

## **K. Conflict of Provisions**

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

## Chapter 7 Definitions and Abbreviations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Bioengineering** - see Soil bioengineering.

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

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

**BMPs** - see Best Management Practices.

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

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

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

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

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

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

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

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

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

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

**City** - The City of Lakewood.

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

**CMZ** - see Channel Migration Zone.

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

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

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

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

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

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

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

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

**Development** - The construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any permanent or temporary project which interferes with the normal public use of the waters overlying lands subject to the SMA at any state of water level (See RCW 90.58.030(3a)).

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

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

**Dock** - A floating moorage structure.

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

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

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

**EIS** - Environmental Impact Statement.

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

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

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

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

**Emergency** - An unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the SMP. Emergency construction is construed narrowly as that which is necessary to protect property from damage by the elements. For a complete definition of emergency, including required follow up actions and exclusions from this definition, see RCW 90.58.030(3eiii) and WAC 173-27-040(2d)).

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

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

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

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

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

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

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

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

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

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

**Fair market value** - The open market bid price for conducting the work, using the equipment and facilities, and purchasing the goods, services and materials necessary to accomplish a development, normally the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials (See WAC 173-27-030(8)).

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

- (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

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

In cases where certain actions are required unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

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

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

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

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

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

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

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

**Geotechnical report or Geotechnical analysis** - A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology; the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes; conclusions and recommendations regarding the effect of the proposed development on geologic conditions; the adequacy of the site to be developed; the impacts of the proposed development; alternative approaches to the proposed development; and measures to mitigate potential site-specific and cumulative geological and hydrological impacts of the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers or geologists who have professional expertise about the regional and local shoreline geology and processes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**LID** - Low Impact Development.

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

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

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

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

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

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

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

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

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

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

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

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

**Nonconforming use or development** - A shoreline use or structure which was lawfully constructed or established prior to the effective date of the SMA or the SMP or amendments thereto, but which no longer conforms to present regulations or standards of the program (See WAC 173-27-080).

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

**Normal repair** – To restore a development to a state comparable to its original condition, including but not limited to its size, shape, configuration, location and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resource or environment.

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

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

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

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

**Primary structure** – The structure associated with the principal use of the property. This also includes single family residential appurtenant structures (such as a garages, attached decks, driveways, utilities, and septic tanks and drainfields) that cannot feasibly be relocated. It does not include structures such as tool sheds, gazebos, greenhouses or other ancillary residential improvements that can feasibly be moved landward to prevent the erosion threat.

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

- 1) Comparatively high fish or wildlife density;
- 2) Comparatively high fish or wildlife species diversity;
- 3) Fish spawning habitat;
- 4) Important wildlife habitat;
- 5) Important fish or wildlife seasonal range;
- 6) Important fish or wildlife movement corridor;
- 7) Rearing and foraging habitat;
- 8) Important marine mammal haul-out;
- 9) Refuge habitat;
- 10) Limited availability;
- 11) High vulnerability to habitat alteration;
- 12) Unique or dependent species; or
- 13) Shellfish bed.

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

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

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

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

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

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

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

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

**RCW** - Revised Code of Washington.

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

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

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

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

**Restoration or Ecological restoration** - The reestablishment or upgrading of impaired ecological shoreline processes or functions accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

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

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

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

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

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

**SEPA** - see State Environmental Policy Act

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

**Setback** - A required open space, specified in SMPs, measured horizontally upland from and perpendicular to the OHWM.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Significant vegetation removal** – The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

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

**SMA** - see Shoreline Management Act.

**SMP** - see Shoreline Master Program.

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

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

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

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

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

**Substantial Development** - Any development of which the total cost or fair market value exceeds six thousand, four hundred, and sixteen dollars (\$6,416), or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this definition must be adjusted for inflation by the Washington State Office of Financial Management every five (5) years based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials. A list of activities and developments that shall not be considered substantial development is provided in Chapter 7 (See WAC 173-27-040(2)(a)).

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

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

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

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

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

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

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

**WAC** - Washington Administrative Code.

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

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

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

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

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

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

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

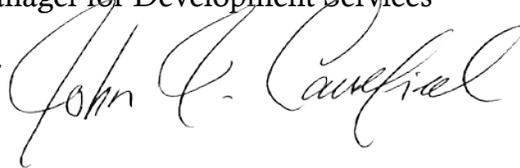
**Wetlands or Wetland areas** - Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, generally including swamps,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

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



To: Mayor and City Councilmembers

From: Dan Catron, Principal Planner  
Dave Bugher, Assistant City Manager for Development Services

Through: John J. Caulfield, City Manager 

Date: July 28, 2014

Subject: **CITY INITIATED UPDATE TO LAKEWOOD MUNICIPAL CODE  
TITLE 17 REGARDING SUBDIVISION OF LAND**

In 1996, upon incorporation, the City of Lakewood adopted “Interim Subdivision Regulations” codified as Title 17 of the Lakewood Municipal Code. Only minor amendments have occurred since that time.<sup>1</sup> The Community Development Department is now proposing a full update of the subdivision regulations.

Staff has developed draft updated regulations which include:

- Clarification of procedures for the review and approval of short plats, preliminary plats, and binding site plans;
- Provide a definition of “legal lot of record” and provide procedures to address whether a lot was legally created, including the issuance of Certificates of Land Division Compliance;
- Clarification of time periods and limitations for review of subdivision applications;
- Clarification of the appeal processes for subdivision applications;
- Provide specific provisions for the review and approval of final plats;
- Clarify provisions for boundary line adjustments and lot mergers.

#### DESCRIPTION OF PROPOSED AMENDMENTS:

Section 17.02.- General Provisions. Updates here include general clean-up of language and format. References to “large lot subdivisions” have been removed throughout the document. References to binding site plans have been added throughout. The ‘Definitions’ section has been

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<sup>1</sup> The subdivision code was amended in 2009 (Ordinance 500) to change the definition of short plat from a maximum of four lots, to a maximum of up to nine lots to reflect changes in State law..

amended to include updated definitions of “binding site plan”, “dedication”, “lot” and “legal lot of record”. References are made to subdivisions in flood areas and adjacent to state highways, which require special consideration and consultation with state agencies.

Section 17.04- Legal Lots. This is a new section intended to ensure that the subdivision of land is properly regulated, and that lots are established in accordance with applicable law. This section includes provisions to document that a lot has been legally created, and makes further provisions for how to proceed when a lot has not been created according to law.

Section 17.06 Preliminary Plat Procedure General. This section has been updated to provide a narrative explanation of the preliminary plat/final plat process and clarify review procedures.

Section 17.10 Preliminary Plat Procedure - Filing Procedure. This section has been modified to reflect an appropriate number of copies of plans to be submitted with an application, and to clarify submittal and application processing procedures,

Section 17.14 Preliminary Plat Procedure - Review Procedure. This section was amended to add a narrative about the review process and outline the process that staff is to follow upon receipt of a preliminary plat application. The amendments also address time limitations to reflect changes in State law.

Section 17.16 Final Plats- Review Procedure. This section has been updated to include references to RCW 58.17, deleting requirement to provide complete survey of the section in which the plat is located, and delete references to large lot subdivisions. Language is added noting that Council review of final plats is strictly limited to the question of whether the final plat is consistent with the findings conclusions and conditions specified in the approval of the preliminary plat.

Section 17.18 Improvements. This section has been amended to add a narrative about the provision of infrastructure within subdivisions, clarify that a site development permit is required prior to the construction of subdivision improvements, clarify that street addresses are assigned by the Building Official, and provide that the City Engineer may refuse to accept a monetary security in lieu of actual construction of improvements where redemption of the security is seen as problematic, or where the improvements are required immediately.

Section 17.22 Short Subdivisions. This section has been updated to reduce the number of copies of plans that need to be submitted with an application, update references to state law regarding processing times, simplify regulations for posting of the public notice, provide additional information regarding review by other departments, revise policies regarding private streets, clarify general application procedures and providing a two-part approval process similar to the process used for preliminary plats, and clarify requirements for the approval of a final short plat map. This section would provide a three-year period in which to complete the subdivision improvements and record the final short plat map, and a two-year vesting period after final approval and recordation of the short plat map. References to large lot subdivisions are removed.

Section 17.26 Private Street Plats. Only minor formatting changes are made to this section.

Section 17.30 Binding Site Plan. This section has been revised to clarify submittal requirements and review procedures, including timelines for processing. The update would provide vesting for a period of one year from the time of preliminary approval, unless extended by the issuance of a building permit. The project would also be vested for the time that any building permit is valid and active. The revised provisions would allow for special rules and regulations to be adopted as part of the binding site plan approval to regulate future development on the subject property.

Section 17.34 Residential Condominium Binding Site Plan Review Process. Updates to this section clarify that binding site plans are applicable to any project which purports to subdivide land into separate lots or units. The updates also clarify that some requirements may not be applicable until and unless the binding site plan is implemented, unless the requirements would be applicable to the same project being developed without a binding site plan. The update would also provide vesting for a period of one year from the time of preliminary binding site plan approval, unless extended by the issuance of a building permit. The project would then be vested for the time that any building permit is valid and active.

Section 17.38 Boundary Line Adjustments. This section has been updated to include parcel mergers/lot combinations as a form of boundary line adjustment. Court decisions have held that any adjustment of parcel boundaries that does not create any new lots is exempt from the provisions of the RCW 58-17 – Subdivisions. Therefore, all adjustments that maintain the same or fewer number of lots is considered a boundary line adjustment, not just “minor boundary changes”. The proposed amendments also update language and provide specific timelines for the processing of a boundary line adjustment application.

Section 17.42 Miscellaneous, Review, Penalties and Severability. Amendments to this section are generally minor. A separate section has been added to allow for minor corrections to recorded documents to be accomplished administratively.

#### **ANALYSIS:**

The proposed amendments are largely administrative in nature and are intended to reflect current city practices and state law. Important issues for staff include defining legal lots of record, and addressing obsolete subdivisions. This issue is addressed primarily in the new section 17.04- Legal Lots. This new section provides for the issuance of “certificates of land division compliance” which includes a process whereby property owners can present information and evidence to the Community Development Department in order to determine the status of land. The Department currently uses building code restrictions against building across property lines to consolidate skinny-mini parcels whenever they are developed.

#### **PUBLIC NOTICE:**

Sixty day notice was provided to the Washington Department of Commerce pursuant to RCW 36.70A.106 on February 4, 2014. Copies of the draft ordinance were sent to interested public agencies, the Pierce County Master Builders Association (MBA), and several Pierce County surveyors on March 20, 2014. Notice of the SEPA Determination of Non-Significance was also published in *The News Tribune* on March 20, 2014. Public notice of the May 7<sup>th</sup> public hearing before the Planning Advisory Board was posted at City Hall and published in *The News Tribune* on April 17, 2014. Copies of the PAB Staff Report and draft ordinance were again sent to the Pierce County MBA and principal Pierce County surveyors the week prior to the May 7<sup>th</sup> PAB hearing. On May 21<sup>st</sup> the MBA testified that they supported the proposed updated regulations.

**EXHIBITS:**

1. Draft Ordinance
2. PAB Resolution 2014-02
3. PAB Minutes from April 2, 2014.
4. Letter from the Lakewood Water District dated April 14, 2014
5. Letter from Tacoma Pierce County Health Department dated April 22, 2014
6. Notice of Public Hearing
7. SEPA Notice
8. SEPA Checklist
9. Determination of Non-Significance

ORDINANCE NO.

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Chapters 17.02, 17.06, 17.10, 17.14, 17.18, 17.22, 17.30, 17.34, 17.38, 17.42 and creating Chapters 17.04 and 17.16 of the Lakewood Municipal Code relative to the Subdivision of Land.

WHEREAS, the City of Lakewood initially promulgated its subdivision code within Title 17 LMC in 1996; and

WHEREAS the provisions of Title 17 LMC are designed to implement and effectuate many of the provisions within the corresponding state subdivision code found within chapter 58.17 RCW; and

WHEREAS, since 1996 multiple amendments have been enacted into law affecting chapter 58.17 RCW, but the Lakewood Municipal Code has not been significantly updated to correspond to those changes; and

WHEREAS, the City of Lakewood Planning Advisory Board reviewed the City's subdivision code, holding public hearings on May 7 and May 21, 2014 and unanimously recommended to the City Council that Title 17 Lakewood Municipal Code be updated and revised,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

Section 1: Section 17.2.010 LMC entitled "City of Lakewood Interim Subdivision Regulations," is amended to read as follows:

| This title shall be known as the City of Lakewood ~~Interim~~-Subdivision Regulations, hereafter referred to as "this Title."

Section 2: Section 17.2.015 LMC entitled "Authority," is amended to read as follows:

| This Title is adopted ~~by the City of Lakewood Ordinance No. 60,~~ pursuant to Chapter 58.17 of the Revised Code of Washington (RCW).

Section 3: Section 17.2.020 LMC entitled "Purpose," is amended to read as follows:

The intent of this section is to provide criteria, regulations and standards to govern the subdividing of land within the City and to:

A. Promote the public health, safety and general welfare in accordance with standards established by the State and the City;

B. To implement the Comprehensive Plan;

C. Promote effective use of land by preventing the overcrowding or scattered development which would injure health, safety or the general welfare due to the lack of water supplies, sanitary sewer, drainage, transportation, parks and recreation areas, or other public services, or excessive expenditure of public funds for such services;

D. Avoid congestion and promote safe and convenient travel by the public on streets and highways through the coordination of streets within a subdivision with existing and planned streets;

E. Provide for adequate light and air;

F. Provide for proper ingress and egress;

G. Provide for the housing and commercial needs of the community;

H. Provide uniform monumenting of land divisions and conveyance of accurate legal descriptions; and

I. Protect environmentally sensitive areas;

J. Encourage the conservation of non-renewable energy resources.

K. Provide for adequate roadway and utility infrastructure with provisions for on-going maintenance and operations costs.

Section 4: Section 17.2.025 LMC entitled “Applicability,” is amended to read as follows:

Every subdivision shall comply with the provisions of Chapter 58.17 Revised Code of Washington, this Title and all future amendments or applicable Federal, State or local laws. After final plat, ~~or short plat,~~ or binding site plan approval, any subsequent division of platted or short platted lots, parcels, tracts, sites or divisions shall be allowed only if the procedures of this Title ~~or the short plat ordinance~~ are first followed, and these requirements shall be applicable to all plats approved prior to the effective date of this Title. ~~Except for the large lot division procedure specified herein, t~~ The provisions of this Title shall not apply to the following:

A. Cemeteries and other burial plots while used for that purpose;

B. Divisions of land into lots or tracts each of which is one thirty-second (1/32) of a Section of land, or larger, or twenty (20) acres or larger if the land is not capable of

description as a fraction of a Section of land; PROVIDED, the division meets the minimum lot size zoning requirements for the area involved and provided further, that for the purpose of computing the size of any lot under this item which borders on a street or public way, the lot size shall be expanded to include that area which would be bounded by the center line of the street or public way and the side lot lines of the lot running perpendicular to such center line;

C. Divisions made by testamentary provisions or the laws of descent, provided that each lot shall meet all applicable minimum lot size requirements.

~~D. Divisions of land into lots or tracts classified for industrial or commercial use when the City has approved a binding site plan which authorizes specific uses of said land in accord with the Chapter 17.30 of this Code; PROVIDED, that when a binding site plan authorizes a sale or other transfer of ownership of a lot, parcel, or tract, the binding site plan shall be filed for record in the County Auditor's office on each lot, parcel, or tract created pursuant to the binding site plan; PROVIDED FURTHER, that the binding site plan and all of its requirements shall be legally enforceable on the purchaser or other person acquiring ownership of lot, parcel, or tract; AND PROVIDED FURTHER, that sale or transfer of such a lot, parcel, or tract in violation of the binding site plan, or without obtaining binding site plan approval, shall be considered a violation of Chapter 58.17 RCW and shall be restrained by injunctive action and be illegal as provided in Chapter 58.17 RCW;~~

~~E. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land when the City has approved a binding site plan in accordance with City Codes.~~

~~D~~F. The transfer of contiguous unplatted lots if:

1. The lots were created in compliance with all applicable State and City subdivision regulations in effect at the time of the creation of said lots; or

2. The lots transferred and remaining lots are improved with dwellings. Provided that transfers pursuant to item 1. or 2. shall not be effective until the proponent is issued a certificate of compliance from the Community Development Department. A certificate shall be issued when the owner or applicant shows that the lot conforms to the criteria above.

~~E~~G. A division which is made by subjecting a portion of a parcel or tract of land to Chapter 64.32 RCW, the Horizontal Property Regimes Act (Condominiums), or 64.34 RCW (the Condominium Act) if the City has approved a binding site plan for all of such land.

~~F~~H. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for

the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures.

Section 5: Section 17.2.030 LMC entitled “Division of Land by Streets or Rights of Way,” is amended to read as follows:

The City declares that the following shall not, of themselves, result in the division of a parcel: a parcel has NOT been divided into separate, legal lots by any one of the following:

- A. ~~Aa~~ State or Federal road or highway; or
- B. ~~Aa~~ City street that has been adopted as part of the City street system; or
- C. ~~Aa~~ City street right-of-way that has been acquired or accepted by the City but is an unopened City street as defined in Section 2.00 of the City Site Development Regulations, or as amended.

Section 6: Section 17.2.035 LMC entitled “Definitions,” is amended to read as follows:

As used in this Title, unless the context or subject matter clearly requires otherwise, the following words or phrases shall have the following meanings:

A. "Binding Site Plan." A Binding Site Plan is an alternative method for subdividing land where the property interests created continue to collectively function as one site with regard to elements such as access, circulation, open space, landscaping, drainage, maintenance, or parking. A binding site plan is used primarily in conjunction with commercial and industrial developments and the establishment of residential condominium projects. A binding site plan includes ~~means~~—a drawing to a scale as specified by the Community Development Department. The site plan shall:

1. Identify and show the area and location of all streets, improvements, utilities, open space;
2. Contain inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the City Hearing Examiner or other appropriate City Department or government body having authority to approve the site plan;
3. Contain provisions requiring that all development occurring within the proposal's boundaries be in conformity with the site plan.
4. Delineate proposed lots or units intended to be created as discrete

ownership interests subject to sale or transfer. If appropriate, such delineation shall be subject to the provisions of RCW 64.34 (the Condominium Act).

B. "Block" is a group of lots, tracts or parcels within well defined and fixed boundaries, often surrounded by roadways.

C. "Council" means the City Council.

D. "County Assessor-Treasurer" shall be as defined in the Pierce County Charter.

E. "County Auditor" shall be as defined in the Pierce County Charter.

F. "City Engineer" shall be the person appointed by the City Manager as the City Engineering Manager.

G. "Dedication" is the deliberate appropriation of land by an owner for any general ~~and~~ ~~or~~ public uses, reserving ~~to himself~~ no other rights than those such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. Dedications may be accomplished by showing the dedication on a final plat, short plat or binding site plan presented to the City for final approval and recordation. Dedications may also be accomplished via transfer by separate deed. Unless otherwise specifically indicated, title to the dedicated land shall vest in the appropriate governmental unit. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat, short plat or large lot subdivision showing the dedication thereon; and, the acceptance by the public shall be evidenced by the owner by the presentment for filing of a final plat, short plat or large lot subdivision showing the dedication thereon; and, the acceptance by the public shall be evidenced by the approval of such plat for filing by the appropriate governmental unit.

H. "Developer" shall mean the person, party, firm or corporation who applies for approval of a subdivision, short plat or ~~large lot subdivision~~ binding site plan.

I. "Examiner" means the land use hearing examiner who is herein authorized to approve subdivisions, and hear appeals on short subdivisions and ~~large lot divisions~~ binding site plans.

J. "Final Plat" is the final drawing of the subdivision and dedication drawn to a scale not smaller than one inch equals one hundred feet (1" = 100') unless approval of another scale is given by the Community Development Director, on standard 18" x 24" sheet size, prepared for filing for record with the County Auditor and containing all elements and requirements set forth in State law and in this Title.

K. "Geological Hazard" means any hazard caused by natural or artificial causes which may damage persons or property and which would include but not be limited to slides, slippage or instability of earth, rock and soil. Geological hazards are generally addressed in the City's Critical Areas and Resource Lands regulations (LMC Title 14A).

L. "Improvement" shall mean any thing or structure constructed for the benefit of all or some residents of the subdivision or the general public such as but not limited to streets, alleys, storm drainage systems and ditches, sanitary sewer pipes or main lines, water lines, services, and mains, and storm drainage containment facilities.

M. ~~"Large Lot Divisions" means any number of divisions of land into lots, tracts or parcels for any purpose, the smallest lot size of which is five (5) acres or larger or one one hundred twenty eighth (1/128) of a Section or larger, except those divisions exempted by Section 17.02.010 of this Code.~~ "Legal Lot of Record" means a legally created lot. A person may establish that a lot has been legally created, by providing one (1) of the following:

1. A copy of a recorded formal plat, short plat, binding site plan, or subdivision approved by Pierce County or the City of Lakewood pursuant to RCW 58.17 or RCW 58.16 separately describing the lot.

2. A copy of the recorded boundary line adjustment or lot combination approved by Pierce County or the City of Lakewood separately describing the lot.

3. Documentation that the creation of the lot was exempt from the provisions of the Pierce County or City of Lakewood Subdivision Regulations.

4. A recorded deed, contract of sale, mortgage, survey, or tax segregation executed prior to August 13, 1974 that separately describes the lot.

The most recent recorded action or instrument establishing the boundary of a lot shall control. Any point within the interior of a lot shall be considered to be within one, and only one, legal lot of record.

N. ~~"Lot" is a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels, recognized unit of property with a written or platted legal description that addresses permissions or constraints upon its development. A "legal lot of record" is a lot that has been legally created as demonstrated by compliance with LMC 18A.50.115.A. Alternatively, a legal lot of record may be established through the Certificate of Land Division Compliance provisions of this title. A "parcel" is an identification of land for taxation purposes. A parcel may or may not be a legal lot of record.~~

O. "Model Home." A model home for the purpose of this Code shall be defined as a dwelling in accordance with the City Zoning Code.

P. "Original Tract" means a unit of land which the applicant holds under single or unified ownership, or in which the applicant holds controlling ownership and the

configuration of which may be determined by the fact that all land abutting said tract is separately owned by others, not including the applicant or applicants; PROVIDED, that where a husband and wife own contiguous lots in separate or community ownership, said contiguous lots shall constitute the original tract.

Q. "Planning Agency" means the City Community Development Department together with the Planning Commission.

R. "Planning Commission" means that body as defined in Chapter 35A.63 RCW as designated by the Council to perform a planning function, or if the Council does not appoint a Planning Commission, the Council shall act as the Planning Commission.

S. "Plat" is a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications.

T. "Preliminary Plat" is a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks and restrictive covenants to be applicable to the subdivision which shall furnish a basis for the approval or disapproval of the general layout of a subdivision.

U. "Reserved Street Area" means a defined area of land within the short plat or subdivision which is required by the City Engineering Manager to be reserved for a future street, and said area shall be dedicated to the City at the time of approval, but the street need not be constructed by the applicant or developer until such time as stated in the ordinance. Setbacks shall be established as if the reserved street area were dedicated.

V. "Short Plat" is the map or representation of a short subdivision.

W. "Short Subdivision" is any ~~voluntary or involuntary~~ division or redivision of land into nine (9) or fewer lots, tracts, parcels, sites or subdivisions for the purpose of sale, lease or transfer of ownership.

X. "Subdivision" is any ~~voluntary or involuntary~~ division or redivision of land into ten (10) or more lots, tracts, parcels, sites or division for the purpose of sale, lease, or transfer of ownership except as provided in Subsection M. of this Section.

Section 7: A new Section 17.2.040 LMC entitled "Subdivisions in Flood Areas," is created to read as follows:

The city shall consider the physical characteristics of any proposed subdivision site and may disapprove a proposed plat or short plat because of flood, inundation, or wetland conditions. Construction of protective improvements may be required as a condition of approval, and such improvements shall be noted on the final plat.

No plat shall be approved for the subdivision of any land situated in a flood control zone as provided in chapter 86.16 RCW without the prior written approval of the Department of Ecology of the state of Washington.

Section 8: A new Section 17.2.045 LMC entitled “Subdivisions Adjacent to State Highways,” is created to read as follows:

Pursuant to RCW 58.17.155, whenever the city receives an application for the approval of a plat or short plat that is located adjacent to the right-of-way of a state highway, the Community Development Department shall give written notice of the application, including a legal description of the subdivision or short subdivision and a location map, to the Washington State Department of Transportation. The Department of Transportation shall, within fourteen days after receiving the notice, submit to the responsible administrator who furnished the notice a statement with any information that the Department of Transportation deems to be relevant about the effect of the proposed short subdivision upon the legal access to the state highway, the traffic carrying capacity of the state highway and the safety of the users of the state highway.

Section 9: A new Chapter 17.04 LMC entitled “Legal Lots,” is created as follows

Chapter 17.04  
Legal Lots

Sections:

17.04.10 Purpose and Intent

17.04.20 Definition

17.04.30 Certificate of Land Division Compliance

17.04.40 Application

17.04.50 Review and Processing Procedures

17.04.60 Certificate of Noncompliance

17.04.70 Non-buildable Lots

Section 10: A new Section 17.04.010 LMC entitled “Purpose and Intent,” is created to read as follows:

The purpose of this chapter is to advance the purposes and intent of RCW 58.17; namely, to “regulate the subdivision of land and to promote the public health, safety and general welfare in accordance with standards established by the state to prevent the overcrowding of land; to lessen congestion in the streets and highways; to promote effective use of land; to promote safe and convenient travel by the public on streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage, parks and recreation areas, sites for schools and schoolgrounds and other public requirements; to provide for proper ingress and egress; to provide for the expeditious review and approval of proposed subdivisions which conform to zoning standards and local plans and policies; to adequately provide for the housing and commercial needs of

the citizens of the state; and to require uniform monumenting of land subdivisions and conveyancing by accurate legal description.

This chapter seeks to ensure that the subdivision and development of land is accomplished in a thoughtful and orderly manner. This section seeks to balance the ability to develop private property with the public interest in ensuring that any such development does not adversely affect the community, the environment, or surrounding land uses.

Section 11: A new Section 17.04.020 LMC entitled “Definition,” is created to read as follows:

A legal lot is a lot with specific fixed boundaries which was created consistent with applicable state law and which remains consistent with applicable state law. LMC 18A.50.115.A sets forth requirements to establish a legal lot of record. To establish that a lot has been legally created, an applicant shall provide one (1) of the following:

A. A copy of a recorded formal plat, short plat, binding site plan, or subdivision approved by Pierce County or the City of Lakewood pursuant to RCW 58.17 or RCW 58.16 separately describing the lot.

B. A copy of the recorded boundary line adjustment or lot combination approved by Pierce County or the City of Lakewood separately describing the lot. This does not include actions taken by the County Assessor’s Office for tax purposes only.

C. Documentation that the creation of the lot was exempt from the provisions of the Pierce County or City of Lakewood Subdivision Regulations.

D. A deed, contract of sale, mortgage, recorded survey, or tax segregation executed prior to August 13, 1974 that separately describes the lot.

Section 12: A new Section 17.04.030 LMC entitled “Certificate of Land Division Compliance,” is created to read as follows:

In the event that an asserted lot was not created pursuant to a formal plat action, or where there is a question of a lot’s legality, a property owner may apply for a Certificate of Land Division Compliance.

Although a certificate of compliance certifies the legality of the parcel, it neither ensures that it is a buildable parcel, nor entitles the parcel owner to a construction permit or other development permits or approvals. To obtain a construction permit or other land use approval for the parcel, the owner must complete the appropriate application process and meet all existing regulations.

If the City determines that the parcel was created in compliance with the provisions of RCW 58.17 and local ordinances at the time of its creation, a certificate of compliance

may be issued. If the parcel was not created in compliance with those provisions, a conditional certificate of compliance or a notice of violation may be issued. A Notice of Violation is a recorded document notifying the owner and subsequent owners that the parcel was created in violation of RCW 58.17 and local ordinances. A landowner, upon receipt of the city's intent to file a notice of violation may apply for a conditional certificate of compliance. The conditions which must be satisfied before a property is declared to be a legal lot, or before issuance of any permit or other approval, will typically be the same as those that would have been applied if the parcel had been legally created using the land division process. The city will not record the notice of violation if a conditional certificate is issued.

Section 13: A new Section 17.04.040 LMC entitled "Application," is created to read as follows:

Application for a certificate of compliance shall be made to the community development department on forms provided by the department, accompanied by the required filing fee. An application for a certificate of compliance shall be accompanied by the following:

A. One copy of grant deeds or other conveyance documents establishing the ownership of the property on the date of its creation;

B. One copy of the grant deed (s) or other conveyance documents showing the current owner of the parcel;

C. The assessor's parcel number for the property;

D. Legal description of the parcels;

E. Current preliminary title report(s) for the subject property, not more than six months old, issued by a title company;

F. One copy of any plat map(s) which depict the property involved in the request.

Section 14: A new Section 17.04.050 LMC entitled "Review and Processing Procedures," is created to read as follows:

The community development director shall review the application and shall issue a certificate of compliance, conditional certificate of compliance, or notice of violation. The determination shall be based on the following criteria:

A. A certificate of compliance shall be issued for a parcel created prior to August 13, 1974, which resulted from a division of land in which fewer than five parcels were created; or,

B. A certificate of compliance shall be issued for any lot created as part of a recorded

formal plat, short plat, binding site plan, or subdivision approved by Pierce County or the City of Lakewood pursuant to RCW 58.17 or RCW 58.16; or,

C. A certificate of compliance shall be issued for any lot created as the result of a recorded boundary line adjustment or lot combination approved by Pierce County or the City of Lakewood; or

D. A certificate of compliance may be issued where documentation is provided showing that the creation of the lot was exempt from the provisions of the Pierce County or City of Lakewood Subdivision Regulations.

E. A conditional certificate of compliance shall be issued for any parcel which does not, or at the time of creation did not, comply with the provisions of state law and local ordinances regulating the division of land. A conditional certificate of compliance may include conditions as follows:

1. If the current owner was not the owner at the time of the initial land division, the conditional certificate of compliance shall impose conditions which would have been applicable to a division of land on the date the current owner acquired the property; or

2. If the current owner was the owner at the time of the initial land division, the conditional certificate of compliance shall impose conditions which would be applicable to a current division of land.

Section 15: A new Section 17.04.060 LMC entitled “Notice of Violation,” is created to read as follows:

A. If the community development director has knowledge that real property has been divided in violation of the provisions of this title or RCW 58.17, a notice of intention to record a notice of violation shall be mailed by certified mail with return receipt to the current owner of record of the property. The notice shall describe the property in detail, name the owner(s), describe the violation with an explanation as to why the property is not lawful, and state that the owner will be given an opportunity to present evidence to the contrary. The notice shall specify the date, time, and place for a meeting at which the owner may present evidence to the community development director why a notice of violation should not be recorded. The meeting shall take place no sooner than 30 days and no later than sixty days from the date of mailing. The owner shall have fifteen days to indicate whether or not he or she has any objections to the notice and would like to avail him or herself of the opportunity to meet with the community development director.

B. An owner may apply for a conditional certificate of compliance per Section 17.04.030 of this title. If, however, after the owner has presented evidence, the community development director determines that the property has in fact been illegally divided, the city clerk shall record the notice of violation with the county recorder. If, within fifteen days of receipt of the notice, the owner of the real property fails to inform the city of his or her objection to the notice of violation, the city clerk shall record the notice of

violation with the county auditor. The notice of violation, when recorded, shall be deemed to be constructive notice of the violation to all successors in interest in the subject property. Pursuant to LMC 18A.50.115 and RCW 58.17.210, development shall be permitted only on a legally created lot.

C. If, after the owner has presented evidence, it is determined that there has been no violation, the City shall issue a certificate of compliance or a conditional certificate of compliance, and shall mail a clearance letter by certified mail with return receipt to the then current owner and shall record the clearance statement or certificate of compliance with the County Auditor.

D. A determination that a violation has been sustained is appealable to the City's Hearing Examiner in accordance with the provisions of chapter 1.36 LMC.

Section 16: A new Section 17.04.070 LMC entitled "Non-buildable Lots," is created to read as follows:

There may be situations where a legal lot of record may be deemed unbuildable because of size, dimension, topography, lack of access, environmental constraint or other factors. When anticipated, information regarding limitations and constraints may be required to be noted on the certificate of compliance, or the city may issue some other appropriate form of notice.

Section 17: Chapter 17.06 LMC entitled "Preliminary Plat Procedure – General/Prefiling Procedure -- SEPA," is retitled to read, "Preliminary Plat Procedure – General," as follows:

**17.6.000 - Preliminary Plat Procedure – General Prefiling Procedure – SEPA**

Chapter 17.06

Preliminary Plat Procedure - General Prefiling Procedure – SEPA

Sections:

17.06.010 Explanation of Prefiling Preliminary Plat and Final Plat Approval.

17.06.020 Plans Required.

17.06.030 Recommendations on Street, Drainage, Sewer, Water Utility and Fire Systems.

Cross-reference: Chapter 86. RCW

Section 18: A Section 17.06.010 LMC entitled "Explanation of Prefiling Plat and Final Plat Approval," is retitled, "Explanation of Preliminary Plat and Final Plat Approval," and amended to read as follows:

The City of Lakewood utilizes a two part review procedure for subdivision projects. The first part- the preliminary plat- is used to communicate the scope and specific details of the proposed subdivision. Environmental review under SEPA is performed at this stage. Specific requirements for the implementation of the subdivision are crafted in response review comments by responsible agencies and the environmental review.

A preliminary plat application is acted upon by the City's hearing examiner. The hearing examiner's decision is the primary discretionary action by the City on the subdivision proposal. After final conclusion with regard to the preliminary plat, the developer is required to install subdivision improvements and utilities, and take other actions as required by the conditions of approval of the preliminary plat in order to implement the subdivision.

Upon completion of required infrastructure improvements and satisfaction of the requirements of the preliminary plat approval, the applicant shall file a final map following the procedures in Chapter 17.16 of this title. The proposed final plat map is reviewed by the Community Development Director and City Engineer for conformance with the terms of the preliminary plat approval. The City Council shall thereafter review the final plat as indicated in LMC 17.16.040.

Upon review and approval by the City Council, the final map shall be signed by all responsible agencies and shall be duly recorded with Pierce County. Legal lots are created upon recordation of the final plat map.

~~Certain steps are required of the developer and of the City prior to the actual filing date of the preliminary plat. These steps include the developer's completion of the Environmental Checklist and submitting nine (9) copies of the proposed preliminary plat to the Community Development Department and eight (8) copies of the Environmental Checklist.~~

Section 19: Section 17.06.020 LMC entitled "Plan Required," is retitled "Plans Required," and amended to read as follows:

Whenever it is essential for purposes of evaluating environmental or other concern, the City Community Development Director or City Engineer ~~Engineering Manager~~ may require the developer to submit certain specific concept drawings or studies (e.g. traffic impact analysis) prior to preliminary plat approval.

Section 20: Section 17.06.030 LMC entitled "Recommendations on Street, Drainage, Sewer, Water and Fire Systems," is retitled "Recommendations on Street, Drainage, Utility and Fire Systems," and amended to read as follows:

The City Engineer ~~City Engineering Manager~~, the County Health Officer, utility providers, and the Fire Chief shall review and certify-communicate to the Hearing Examiner; their respective recommendations as to the adequacy of the proposed street system, ~~and~~ storm drainage ~~system~~, ~~the proposed~~ sewage disposal, ~~and~~ water supply and other utility systems, and fire protection services for the subdivision. The recommendations of the City Engineer ~~City Engineering Manager~~, the County Health Officer and the Fire Chief shall become part of the record and shall be included with the Hearing Examiner's decision, ~~if said matter is appealed to the Council.~~

Section 21: Section 17.10.020 LMC entitled “Filing,” is amended to read as follows:

A preliminary plat of a proposed subdivision ~~and~~/or dedication of land located in the City shall be submitted ~~to for approval by the Examiner by filing with~~ the City Community Development Department, ~~and shall include~~ a completed application, ~~paying the~~ application fee, ~~filing sixteen (16) seven (7) paper copies, one 11” X 17” paper copy,~~ and one (1) reproducible electronic copy of the proposed preliminary plat, ~~submitting~~ a list of adjacent landowners as specified herein, ~~submitting and an approved completed~~ Environmental Checklist, ~~and when appropriate, an application for a Comprehensive Plan or zone amendment. Said application for Comprehensive Plan or zone amendment may be considered with the application for preliminary plat approval.~~ For purposes of RCW 58.17.033, a complete application for preliminary plat approval must contain the information and documents required by the following section.

Section 22: Section 17.10.025 LMC entitled “Preliminary Plat,” is amended to read as follows:

A. Application Submittal: ~~Whenever it is possible~~ Any property owner wishing to subdivide land into ~~five (5) ten (10)~~ or more lots, tracts, sites or divisions, the applicant shall file with the City Community Development Department one 8-1/2” x 11” clear plastic reduction, one 11” X 17” reduced paper copy, and ~~seven (7)7~~ legible paper copies of the preliminary plat map on sheets 18” x 24” in size. Preliminary plat maps shall include, or be accompanied by the following:

1. A completed general application form and environmental checklist. Said form and checklist to be obtained from the Community Development Department.

2. The filing fee required pursuant to the City ordinance adopting building and development related permit fees schedule, and in accordance with the fee schedule available from the Community Development Department.

3. Names and addresses of all property owners within 300 feet of the subject property, available from the County Assessor’s Office. This requirement may be waived if the City provides the list of adjacent landowners.

4. A vicinity map extending at least 800 feet in each direction from the proposed subdivision, or further if necessary to assist in locating the subdivision. The vicinity map shall be drawn to a scale of one inch equals 800 feet (1”:800’). The vicinity map shall show the following:

- a. Street layout in the subdivision;
- b. Existing and tentatively approved street layout within 800 feet of the subdivision;
- c. Zoning designations within, and adjacent to, the subdivision;
- d. All property lines within 800 feet of the subdivision;

- e. Streams or watercourses, and public facilities such as schools and parks;
- f. All 100-year floodplain and designated shoreline boundaries in, and within 800 feet of, the proposed subdivision;
- g. Any other pertinent information that will assist in locating the proposed subdivision.

5. A title block in the lower right corner of the preliminary plat map, showing:

- a. The proposed name of the subdivision;
- b. The scale of the drawing;
- c. The date of the drawing;
- d. The name and address of the engineer, surveyor or other individual responsible for laying-out the subdivision.

6. A detailed plan of the proposed subdivision drawn to the scale of one inch equals ~~50~~ 100 feet (1"=~~100~~50') or larger, ~~with the provision that for subdivisions of 50 acres or more the Community Development Director may authorize a smaller scale, when an entire subdivision cannot be shown on a single sheet.~~ The detailed plan shall clearly show the following information:

- a. North arrow;
- b. The location, names and right-of-way widths of all existing and proposed streets and driveways within 250 feet of the boundaries of the proposed subdivision;
- c. The location, names and right-of-way widths of all proposed streets and their proposed paved width;
- d. Lot layout with lot line dimensions, the area in the square feet contained in each lot;
- e. The location and use of all existing buildings within the proposed subdivision, indicating which buildings are to remain and which are to be removed;
- f. The use and approximate location of all buildings within 150 feet of the boundaries of the proposed subdivision;
- g. The location, size and use of all contemplated and existing public areas within the proposed subdivision, and a description of the adaptability of the area for uses contemplated;
- h. The location, size and kind of public utilities in and adjacent to the proposed subdivision, indicating those utilities which will provide service to the proposed development and their planned location within the subdivision to include any existing easements;
- i. Location and disposition of any wells, creeks, drainage courses, drainageways, septic tanks, drainfields, 100-year floodplain boundaries and easements in or within 200 feet of the proposed subdivision;
- j. Topography and five-foot contours certified by the engineer or surveyor within the proposed subdivision; or, as an alternative in the case of a partition of one (one) acre or less, elevations at each existing and proposed

- property corner. One foot or two foot contours may be required, at the Community Development Director's discretion;
- k. Topography and at least ten foot contours outside, but within 200 feet of, the proposed subdivision. The base for such information shall be the National Geodetic Survey (U.S.G.S.), or other survey approved by the Community Development Director;
- l. The location of all significant trees (as defined in the Lakewood Zoning Code) within the proposed subdivision, and for 150 feet beyond the terminus of all dead-end streets (Individual trees in a stand of five trees or more need not be shown, but the area covered by the stand dripline shall be shown. For trees outside the subdivision boundaries, the location of said trees may be based on aerial photographs or other methods acceptable to the Community Development Director, and which do not require the applicant to trespass on adjacent property);
- m. For all 100-year floodplain boundaries shown on the vicinity map, the elevation of the 100-year flood at the point immediately upstream from the subdivision, and the direction and distance to said point;
- n. The location of identified hazards or development limitation areas identified by the City of Lakewood Critical Areas Map;
- o. The location of any state shorelines and associated wetlands within the subdivision, as defined by State law and the City of Lakewood Shoreline Master Program.

7. Profiles of all proposed streets within the proposed subdivision, showing grades to which the streets will be built, and the existing groundline of the proposed streets including the probable future extensions of any stub (dead-end) streets for a maximum distance of 150 feet beyond the proposed subdivision boundaries. As an alternative, the preliminary plat map may show topography in two foot (2') contours within 50 feet of each side of the centerline of all probable future extensions of any stub (dead-end) streets for a distance of 150 feet beyond the boundaries of the proposed subdivision. The contour information shall be certified by a registered engineer or surveyor.

8. Slope analysis indicating areas where existing grades within the subdivision exceed 15%, 25% and 40%. The percentage and area in square feet of the subdivision with slopes of 0 - 15%, 15 - 25%, 25 - 40% and 40% and above categories.

9. Such additional information as the Community Development Director deems necessary.

Section 23: Section 17.10.030 LMC entitled "Staff Procedure," is amended to read as follows:

If the preliminary plat, as filed, is [consistent with the City's comprehensive plan, and is](#) in conformance with all of the City's land use codes and is otherwise acceptable in form and substance, the Community Development Department shall receive the application and

shall promptly forward copies of the preliminary plan to appropriate governmental agencies for their review.

If the application is not consistent with the comprehensive plan land use designation, the application shall be returned to the applicant, and shall not be accepted unless the comprehensive plan land use designation is amended to be consistent with the proposed subdivision.

Section 24: Section 17.10.040 LMC entitled “Notice,” is retitled, “Notice to Agencies,” and amended to read as follows:

A. Notice of Filing. Notice of the filing of a preliminary plat shall be given to the State, municipalities, public utilities and school districts in the following cases and manner:

1. When a proposed subdivision which contemplates the use of any public utilities, notice shall be given to the public utilities governing body.
2. When a proposed subdivision which is to be located adjacent to the right-of-way of a State highway, notice shall be given to the State Department of Highways or its successor.
3. Notice shall be given to the school district within which the subdivision is proposed.
4. When the proposed subdivision lies within a designated flood control zone pursuant to Chapter Title 86: RCW, notification shall be given to the Department of Ecology of the State of Washington, or its successor.
5. When a subdivision is located within the jurisdiction of the Shoreline Management Act, notification shall be given to the Department of Ecology of the State of Washington, or its successor.

Notice of filing as above required, shall be accomplished by the Community Development Director or his authorized designees assistant's notifying the proper agencies by letter of the proposed subdivision filing, which letter shall include its legal description, a small map showing location, subdivision acreage, number of home or building lots, ~~and the hour and location of the first hearing on the preliminary plat.~~ The City may require that any review fees payable to outside agencies be made directly with that agency prior to submittal of the preliminary plat application. The initial review by the departments/agencies of the proposed plat shall be completed within fifteen (15) calendar days, unless, upon the request of the Community Development Department, the applicant consents to an extension of such time period. Each department or official shall either recommend approval, disapproval, or revision of the preliminary plat within the fifteen day initial review period.

The reviewing departments shall have a fourteen (14) day review period to consider any revised plans. At the conclusion of the review period, the reviewing department directors or authorized representatives shall recommend approval, approval with conditions, or denial of the preliminary plat.

B. The City shall provide a Notice of Public Hearing to all agencies commenting on a project and to the Washington State Departments of Transportation and Ecology when notice is required to be given to such agencies because of a project's location near flood hazard areas or state highways. Said letter-notice shall be mailed or delivered at least fourteen (14) days before the date for the initial hearing.

~~B. List of Adjacent Landowners. The developer shall obtain and submit to the Community Development Department Director, the names and addresses of all persons of record, who own or who are contract purchasers of the real property to within 300 feet of the exterior boundary of the proposed subdivision site and outside of the developer's ownership or partial ownership. The names and addresses herein required shall be obtained from the Assessor-Treasurer's records.~~

Section 25: Section 17.10.050 LMC entitled "Determination of Completeness," is amended to read as follows:

Within 28 days of receiving an application for preliminary plat approval containing all information required by Section 17.10.020 of this Code, the Community Development Department shall issue a determination of completeness or incompleteness as required by RCW ~~36.70.A.440~~ 36.70B.070. The Community Development Department is responsible for complying with all other requirements of RCW ~~36.70.A.440~~ 36.70B.070, provided that any applicable time limitations for processing an application, including time limits set forth in RCW 36.70B, RCW 58.17, LMC Title 18A, or this title, shall be tolled while the applicant responds to requests for revision or additional information within the timeframes set forth in this section.

Section 26: A new Section 17.10.060 LMC entitled "Public Notice," is created to read as follows:

Upon receipt of a complete application, a Notice of Application shall be given as required by RCW 36.70B and LMC 18A.02.670. Public notice is also required as part of the environmental review process under SEPA. SEPA notices shall be issued as required by WAC 197-11-340, and may be combined with the Notice of Application as provided for in WAC 197-11-355.

A Notice of Public Hearing shall be issued prior to the public hearing as required by RCW 58.17.090 and LMC 18A.02.700. Notice shall be mailed, posted and first published not less than fifteen (15) nor more than thirty (30) days prior to the public hearing requiring the notice.

Section 27: Section 17.14.010 LMC entitled “Notice of Hearing,” is retitled, “Review Process,” and amended to read as follows:

Preliminary Plat applications shall be reviewed as a Process III Hearing Action as outlined in LMC 18A.02.502 and 18A.02.550. Preliminary plat applications are subject to a hearing before the City’s Hearing Examiner. The Hearing Examiner’s decision on a preliminary plat application is considered final and conclusive.

If a Comprehensive Plan or zoning ordinance amendment is required for a subdivision project, the amendment shall be processed and approved prior to processing of the subdivision application. Site specific comprehensive plan and zoning ordinance amendments shall be reviewed as a Process IV Hearing Action as outlined in LMC 18A.02.502 and 18A.02.560. Amendment applications are subject to a hearing before the Planning Advisory Board and final approval by the City Council.

~~A. General. All hearing notices shall include a description of the location of the proposed subdivision. The description may be in the form of a vicinity location sketch or a location description in non-legal language.~~

~~B. Newspaper Notice. Upon receipt of an application for preliminary plat and after completion of a Final Environmental Impact Statement, if necessary, or Negative Declaration, the Community Development Department staff shall set a date for a public hearing before the Examiner and shall give notice by arranging publication of at least one (1) notice not less than ten (10) days prior to the hearing in the newspaper of general circulation in the City.~~

~~C. Notice to Adjacent Ownership. The Community Development Department shall notify by letter, the persons who own or are contract purchasers of the real property, as shown by the records of the County Assessor-Treasurer, located within three hundred (300) feet, but not less than two (2) parcels deep, around the perimeter of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice under this subsection shall be given to owners of real property located within three hundred (300) feet, but not less than two (2) parcels deep, around the perimeter of any portion of the boundaries of such adjacently located parcels of real property owned by the owner of the real property proposed to be subdivided. Said notice shall specify the particulars of the initial hearing on the proposed subdivision and shall include a description of the location of the proposed subdivision in non-legal language or a vicinity location sketch and shall be mailed not less than twenty-one (21) days before said hearing.~~

~~D. Posting Requirements. After acceptance of a preliminary plat application, notice of application shall be posted by the applicant on the property at its principal entry point to the nearest right-of-way, as determined by the Community Development Department. Notice shall be posted on a 3 foot by 4 foot waterproof sign. The sign shall be made of corrugated plastic to specifications provided by the City (see drawing No. 1, appendix A)~~

~~If desired, a sign may be purchased from the City at a cost to be determined by the manufacturing cost at the time of purchase. The sign(s) shall be located so as to be easily visible from the abutting street. When more than one street abuts the property, the sign(s) shall be easily visible from each street. When a proposal is within an existing subdivision, planned development district or planned unit development, an additional sign shall be posted at each major street entrance to the development as determined by the Community Development Department. When the sign(s) is posted, the applicant shall complete and return a notarized affidavit of posting to the Community Development Department. The sign(s) shall be erected and maintained by the applicant for a minimum of thirty (30) days prior to the public hearing and until a decision is rendered on the application or appeal. The sign(s) shall be removed by the applicant within one (1) week following the decision by the Hearing Examiner or City Council.~~

Section 28: Section 17.10.020 LMC entitled "Review of Preliminary Plat," is amended to read as follows:

A. Upon receipt of a complete preliminary plat application, the Community Development Department shall begin its review of the application consistent with RCW 36.70B, and relevant provisions of the Lakewood Municipal Code. The Department shall transmit a copy of the plat map, easements, and application materials to relevant city departments, utilities providing services to the subdivision, and any other government agencies with jurisdiction as required by LMC 17.10.040. At a minimum, the Department shall transmit the application to the City Engineer, the Building Official, Lakewood Water District, Pierce County Sewer Utility, West Pierce Fire and Rescue, the appropriate electric utility provider, the Pierce County Assessor's Office, and the Tacoma-Pierce County Health Department. The Community Development Director shall also transmit a copy of the application to other agencies with an interest in the project including, but not limited to, Washington State Department of Transportation, Washington Department of Fish and Wildlife, Washington State Department of Ecology, Joint Base Lewis McChord, and Camp Murray. The Community Development Department shall also issue a Notice of Application pursuant to LMC 18A.02.600 *et seq.* and shall commence environmental review under SEPA. Responsible agencies shall provide comments as provided in LMC 17.10.040.

B. The Hearing Examiner shall review all proposed preliminary plats and shall take such action thereon as to assure conformance of the proposed subdivision to the general purposes of the comprehensive plan and to planning standards and specifications as adopted by the City. The approval of any preliminary plat may be conditioned upon the developer's obtaining proper Comprehensive Plan or zoning designation for the subdivision.

BC. The decision by the Examiner is a final and conclusive decision ~~but said decision may be appealed to the Council as specified herein.~~ The Examiner's written decision on the preliminary plat shall include findings and conclusions, based on the record, to support the decision. Each final decision of the Examiner, ~~unless a longer period is mutually agreed to by the applicant and the Examiner,~~ shall be rendered within ten (10)

working days following the conclusion of all testimony and hearings unless a longer period is mutually agreed to by the applicant and the Examiner.

Section 29: Section 17.14.030 LMC entitled “Required Written Findings and Determinations,” is amended to read as follows:

~~A.~~The Examiner shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. ~~The Examiner shall determine:~~

~~1. If appropriate provisions are made for, but not limited to the public health, safety, and general welfare, for open spaces, drainage ways, streets or streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and~~

~~2. whether the public interest will be served by the subdivision and dedication.~~

~~B.~~A proposed subdivision and dedication shall not be approved unless the Examiner makes written findings that:

~~A.1.~~ Appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school; and

~~B.2.~~ The public use and interest will be served by the platting of such subdivision and dedication. If the Examiner finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the Examiner shall approve the proposed subdivision and dedication.

Section 30: Section 17.14.040 LMC entitled “Time Limitations,” is amended to read as follows:

A. In General. A final plat meeting all of the requirements of law shall be submitted to the City within ~~five (5) years of the date upon which the approval of the preliminary plat is final,~~ ten years of the date of preliminary plat approval if the project is not subject to requirements adopted under chapter 90.58 RCW (Shoreline Management Act) and the date of preliminary plat approval is on or before December 31, 2007, within seven years of the date of preliminary plat approval if the date of preliminary plat approval is on or before December 31, 2014, and within five years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2015. The approval of a preliminary plat shall be automatically null and void if final plat approval is not obtained within the time limitations specified herein.

In addition, pursuant to RCW 58.17.170 (3)(b), a subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150 (1) and (3) for a period of ten years after final plat approval if the project is not subject to requirements adopted under chapter 90.58 RCW (Shoreline Management Act) and the date of final plat approval is on or before December 31, 2007, unless the City Council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision. Otherwise, any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of seven years from the date of filing if the date of filing is on or before December 31, 2014, and for a period of five years from the date of filing if the date of filing is on or after January 1, 2015. (RCW 58.17.170).

B. Extension Procedure.

1. Time for Filing. A written application for any extension of time under the provisions of this Section shall be filed with the Community Development Department at least thirty (30) days prior to the expiration of the existing period of approval currently applicable. The applicable time period shall be tolled from the date of filing the application for extension until the date of the final decision by the City. Each application shall be accompanied by payment of a filing fee in an amount established by separate Resolution.

2. Additional Extensions-Changed Conditions. Upon filing of an application for extension, a copy shall be sent to each party of record together with governmental departments or agencies as were involved in the process of preliminary plat approval. By letter, the Examiner shall request that written comments, if any, be delivered to the Examiner's office within ten (10) working days of the date of the Examiner's letter. If any comment requests the alteration or expansion of conditions of approval, the applicant shall be provided with a copy of such proposal and a period of ten (10) working days in which to file objections, if any, ~~and~~ or a request for formal hearing. In the absence of such objection, the Examiner may conclude that the proposed change in conditions is acceptable to the applicant and proceed to a decision in accordance with procedures set forth in this Section.

3. Hearing Examiner-Hearing. If, in the opinion of the Examiner, substantial issues have been raised concerning the application for extension, the Examiner may schedule a public hearing. In the case of a request for extensions of time beyond the initial one (1) year period, if a proposal is made to alter or expand the conditions of approval, a public hearing shall be held upon written request by the applicant or any party of record upon a determination by the Hearing Examiner that there are substantial issues which necessitate a public hearing.

#### 4. Hearing Examiner Decision.

a. With hearing. If a public hearing is held under the provisions of Section ~~BD~~.3 above, the Examiner shall issue a decision together with findings and conclusions in support thereof within ten (10) working days of the date of the hearing.

b. Without hearing. If no public hearing is held, the Examiner shall issue his decision with ten (10) working days of the date upon which written comments were to be filed with the Examiner.

Hearing Examiner Decision-~~Appeal~~. The decision of the Examiner to grant or deny extensions of time shall be final, ~~unless appealed under the provisions of Sections 17.14.050, 17.14.060, and 17.14.070.~~

C. Stages. If the developer desires to develop said subdivision in stages, each stage or division must be approved within the time limits specified herein.

Section 31: Section 17.14.060 LMC entitled "Appeal of Examiner's Decision," is amended to read as follows:

The decision of the Hearing Examiner is final and conclusive, subject only to judicial appeal.

The final decision by the Examiner on a preliminary plat may be appealed to the Council, by any aggrieved person directly affected by the Examiner's decision. Said appeal procedure is as follows:

A. The appellant must file written notice of appeal with the Community Development Department and the appeal fee within ten (10) working days of the date of mailing of the Examiner's final decision; provided, that if the Examiner was requested to reconsider the decision, then the appeal must be filed within ten (10) working days of the mailing of the Examiner's final order or decision on the reconsideration request.

B. The notice of appeal shall concisely specify such error and/or issue which the Council is asked to consider on appeal.

C. Upon the filing of an appeal, the Community Development Department shall forward to the Council the original tape contain ing a verbatim record of the proceedings before the Examiner. An appeal shall stay the effective date of the Examiner's decision until final resolution has been made by the Council.

D. The approval of a final plat is strictly limited to the questions of whether the final plat is consistent with the findings, conclusions and conditions specified for the preliminary plat. Environmental considerations and satisfaction of review criteria specified by Section 17.14.030 and RCW 58.17.110 which are not relevant to the findings, conclusions or

~~decision for the preliminary plat cannot be raised during the review of a final plat but must be raised at the time for reviewing the preliminary plat or they are waived. (Ord. 60 ? 1(part), 1996.)~~

Section 32: The following section is repealed: LMC 17.14.070

~~17.14.070 – Council Action on Appeals~~

~~A. General. For Examiner decisions which an appeal is properly filed, the Community Development Department shall forthwith forward nine (9) copies of the Examiner's decision plus nine (9) copies of the official file and the recorded record to the Clerk of the Council. The Clerk of the Council shall schedule a public meeting date for the Council on the appealed matter.~~

~~B. Public Notice on Appeals. The Clerk of the Council shall cause written notice to be mailed to all "parties of record" and the Examiner to apprise them of the meeting date before the Council. Parties of record are those persons who have:~~

- ~~1. Testified before the Examiner, or~~
- ~~2. Listed their names on a sign up sheet which is available during the Examiner's hearings, or~~
- ~~3. Advised the Community Development Department in writing of their desire to be a party of record.~~

~~C. Council Action on Appeals. Whenever a decision by the Examiner is reviewed by the Council pursuant to this Section, the appellant or other parties of record may submit written memoranda in support of their positions. The Council may impose a time limit on oral presentations. No new evidence or testimony shall be presented to the Council during the oral presentation. The Council may view the site either individually or together, provided that unless all parties of record are given reasonable notice of the time of the view, no one other than City staff can accompany the Council members during the view.~~

~~D. Council Decision on Appeal.~~

~~1. The Council's decision on any appeal from the Examiner shall be based on the record of the hearing held by the Examiner. The Council may not accept or consider any additional~~

~~2. The Council shall consider whether each of the findings of fact entered by the Examiner are supported by substantial evidence in the record. The Council may reverse any finding which is not so supported. Beyond this, the Council may not enter its own findings of fact;~~

~~3. The Council shall consider issues of law *de-nova* in making its decision;~~

~~4. The Council may affirm or reverse the decision of the Examiner or remand the matter~~

to the Examiner for further consideration. Any decision by the Council shall be supported by adequate findings of fact based on the record and by conclusions of law.

~~E. Council Action is Final. The action of the Council, approving or rejecting a decision of the Examiner, is final and conclusive unless within thirty (30) days from the date of the action an aggrieved party or person files an appropriate action in Superior Court for the purpose of reviewing the action taken, and serves all necessary parties.~~

~~F. Reconsideration by the Council. Any aggrieved party or person affected by the action may, within seven (7) working days of the Council's oral decision, file with the Clerk of Council a written request for reconsideration based on any one of the following grounds materially affecting the substantial rights of said party or person:~~

- ~~1. Errors of procedure or misinterpretation of fact, material to the party seeking the request for reconsideration.~~
- ~~2. Irregularity in the proceedings before the Council by which such party was prevented from having a fair hearing.~~
- ~~3. Clerical mistakes in the official file or record transmitted to the Council, including errors arising from inadvertence, oversight, or omission, which may have materially affected the Council's decision on the matter.~~

~~Upon receipt of a request for reconsideration, the Council shall review said request and take such further action as the Council deems proper, including, but not limited to, the right to deny said request for reconsideration without a hearing, or the right to rehear and render a revised decision on the matter if deemed appropriate by the Council. Only one request for reconsideration may be filed by any one person or party, even if the Council reverses or modifies its original decision or changes the language in the decision originally rendered.~~

~~In the event that a request for reconsideration is filed with the Council, the thirty (30) day appeal period to Superior Court as set forth in this Title shall be deemed to commence on the date of the Council's final action relative to the request for reconsideration.~~

~~(Ord. 60 ? 1 (part), 1996.)~~

Section 33: The following sections is repealed: LMC 17.14.080

~~17.14.080–Requirement for Each Plat Filed for Record~~

~~Each and every plat of any property filed for record shall:~~

~~A. Contain a legal description of the plat which shall match the description on the title insurance report.~~

~~B. Contain a dedication for all streets, easements, open space, tracts, or other parcels to be dedicated to the public or other specifically noted entities or organizations.~~

~~C. Be acknowledged by the person filing the plat before the County Auditor or any other officer who is authorized by law to take acknowledgment of deeds, and certificate of said acknowledgment shall be enclosed or annexed to such plat and recorded therewith.~~

~~D. Contain certification from the Assessor-Treasurer that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.~~

~~E. Contain a statement of approval from the City Engineering Manager as to the construction of all streets and associated storm drainage systems for public streets. Streets not dedicated to the public shall be clearly denoted on the face of the plat and the plat shall contain a provision for maintenance of the private streets by the individual lot owners.~~

~~F. Contain a certification from the sewerage provider as to the means of sewage disposal for the lots if required.~~

~~G. Contain a certification from the County Health Department as to the means of sewage disposal and water availability if required.~~

~~H. Contain a certification from the Community Development Department approving the plat and stating that the platting fee has been paid.~~

~~I. Be accompanied by a complete survey of the section or sections in which the plat or replat is located with all survey work being done in compliance with RCW 58.24.040. The final plat shall follow the format as shown on the City Formal Plat Standards as now enacted or hereafter amended.~~

~~J. Be submitted to the City Community Development Department along with the following:~~

~~1. Twelve (12) paper prints.~~

~~2. Two (2) copies of a title report, prepared not more than thirty (30) days prior to the date of written approval by the Director of the Community Development Department, from a title insurance company containing the complete and correct legal description of the plat, listing all easements of record which affect the property and confirming that the title of the lands as described and shown on said plat is in the name of the owners signing the dedication.~~

~~3. Final Plat Land Use Breakdown sheet.~~

~~4. One (1) copy of the plat boundary, individual lots and street centerline computer closures for the plat.  
(Ord. 60 § 1 (part), 1996.)~~

Section 34: The following sections is repealed: LMC 17.14.090

~~17.14.090—Certificate Giving Description, Statement of Owners, and Dedication Requirements~~

~~Every formal subdivision, short subdivision or large lot subdivision filed for record must contain a certificate giving a full and correct description of the lands divided as they appear on the plat drawing, including a statement that the subdivision of property has been made with the free consent and in accordance with the desires of the owner(s) or contractor purchasers. If the subdivision of property includes a dedication, the certification shall also contain the dedication of all streets and other areas to the public, and individual or individuals, religious society or societies or to any corporation, public or private, as shown on the plat document and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said street. Said certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided.~~

~~Any dedication, donation or grant as shown on the face of the plat shall be considered to all intents and purposes, as a quit claim deed to the said donee or donees and/or grantees for his, her or their use for the purpose intended by the donors or grantors as aforesaid. (Ord. 60 § 1 (part), 1996.)~~

Section 35: The following sections is repealed: LMC 17.14.100

~~17.14.100—Review of Final Plats~~

~~The City Community Development Director or authorized assistant shall review applications for the proposed final plat and be satisfied that the following conditions exist:~~

~~A. The final plat meets all standards established by State law and this Title relating to final plats;~~

~~B. The proposed final plat bears the certificates and statements of approval required by this Title and State law;~~

~~C. A title insurance report furnished by the subdivider confirms the title of the land in the proposed subdivision is vested in the name of the owners whose signatures appear on the plat's certificate;~~

~~D. The facilities and improvements required to be provided by the developer have been completed or, alternatively, that the developer has provided a performance bond, or~~

~~cash deposit in lieu thereof, or other security commonly used by banking and lending institutions; provided further that the bond, cash deposit, or other security, as hereinabove required, shall be filed with the Engineering Manager and shall be in a form acceptable to the City Attorney and in an amount and with sureties commensurate with improvements remaining to be completed and securing to the City the construction and installation of the improvements within a fixed time.~~

~~(Ord. 60 § 1 (part), 1996.)~~

Section 36: The following sections is repealed: LMC 17.14.110

~~17.14.110 Council Review of Final Plats~~

~~The City Council shall review final plats in accordance with Chapter 58.17 RCW. When the Engineering Manager finds that the subdivision meets the following criteria, he or she shall recommend approval the proposed final plat if:~~

~~A. The plat conforms to all terms of preliminary plat approval;~~

~~B. The bond, if there is one, by its essential terms assures completion of improvements;~~

~~C. The plat meets the requirements of State law and this Title in effect at the time of preliminary plat approval.~~

~~After the City Council approves the plat, the Community Development Department shall forward the original to the County Auditor for filing, who shall, after recording, forward two reproducible copies thereof to the Engineering Manager and one paper copy to the County Assessor Treasurer.~~

~~(Ord. 60 § 1 (part), 1996.)~~

Section 37: A new Chapter 17.16 LMC entitled, Final Plats – Review Procedure,” is created,

*Chapter 17.16*  
*Final Plats- Review procedure*

*17.16.010 Requirement for Each Plat Filed for Record*

*17.16.020* Certificate Giving Description, Statement of Owners, and Dedication Requirements

17.16.030 Review of Final Plats

17.16.040 Council Review of Final Plats

Section 38: A new Section 17.16.010 LMC entitled “Requirement for Each Plat Filed for Record,” is created to read as follows:

Each and every plat ~~of any property~~ filed for record [pursuant to RCW 58.17.160](#) shall:

A. Contain a legal description of the plat which shall match the description on the title insurance report.

B. Contain a dedication [statement](#) for all streets, easements, open space, tracts, or other parcels to be dedicated to the public or other specifically noted entities or organiza-tions.

C. Be acknowledged by the person filing the plat before the County Auditor or any other officer who is authorized by law to take acknowledgment of deeds, and certificate of said acknowledgment shall be enclosed or annexed to such plat and recorded therewith.

D. Contain certification from the Assessor-Treasurer that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged.

E. Contain a statement of approval from the City Engineering Manager as to the construction of all streets and associated storm drainage systems for public streets. Streets not dedicated to the public shall be clearly denoted on the face of the plat and the plat shall contain a provision for maintenance of the private streets by the individual lot owners.

F. Contain a certification from the sewerage provider as to the means of sewage disposal for the lots if required.

G. Contain a certification from the County Health Department as to the means of sewage disposal and water availability if required.

~~H. Contain a certification from the Community Development Department approving the plat and stating that the platting fee has been paid.~~

~~HI. Be accompanied by a complete survey of the section or sections in which the plat or re-plat is located with all survey work being done in compliance with RCW 58.24.040.~~ The final plat shall follow the format as shown on the City Formal Plat Standards as now enacted or hereafter amended. [All survey work shall be performed in compliance with RCW 58.24.040.](#)

~~I.~~ Be submitted to the City Community Development Department along with the following:

1. Twelve (12) paper prints.

2. Two (2) copies of a title report, prepared not more than thirty (30) days prior to the date of written approval by the Director of the Community Development Department, from a title insurance company containing the complete and correct legal descrip-tion of the plat, listing all easements of record which affect the property and confirming that the

title of the lands as described and shown on said plat is in the name of the owners signing the dedication.

3. Final Plat Land Use Breakdown sheet.

4. One (1) copy of the plat boundary, individual lots and street centerline computer closures for the plat.

Section 39: A new Section 17.16.020 LMC entitled “Certificate Giving Description, Statement of Owners, and Dedication Requirements,” is created to read as follows:

Every formal subdivision, short subdivision or ~~large lot subdivision~~ binding site plan filed for record must contain a certificate giving a full and correct description of the lands divided as they appear on the plat drawing, including a statement that the subdivision of property has been made with the free consent and in accordance with the desires of the owner(s) or contractor purchasers. If the subdivision of property includes a dedication, the certification shall also contain the dedication of all streets and other areas to the public, and individual or individuals, religious society or societies or to any corporation, public or private, as shown on the plat document and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said street. Said certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided.

Any dedication, donation or grant as shown on the face of the plat shall be considered ~~to~~ for all intents and purposes, as a quit-claim deed to the said donee or donees and/or grantees for his, her or their use for the purpose intended by the donors or grantors as aforesaid.

Section 40: A new Section 17.16.030 LMC entitled “Review of Final Plats,” is created to read as follows:

The City Community Development Director or authorized designee shall review applications for the proposed final plat and be satisfied that the following conditions exist:

A. The final plat meets all standards established by State law and this Title relating to final plats;

B. The proposed final plat bears the certificates and statements of approval required by this Title and State law;

C. A title insurance report furnished by the subdivider confirms the title of the land in the proposed subdivision is vested in the name of the owners whose signatures appear on the plat's certificate;

D. The facilities and improvements required to be provided by the developer have been completed or, alternatively, that the developer has provided a performance bond, or cash deposit in lieu thereof, or other security commonly used by banking and lending institutions; provided further that the bond, cash deposit, or other security, as hereinabove required, shall be filed with the City Engineer and shall be in a form acceptable to the City Attorney and in an amount and with sureties commensurate with improvements remaining to be completed and securing to the City the construction and installation of the improvements within a fixed time.

E. That all conditions of the preliminary plat approval have been satisfied and that all platting fees have been paid.

Section 41: A new Section 17.16.040 LMC entitled “Council Review of Final Plats,” is created to read as follows:

The City Council shall review final plats in accordance with Chapter 58.17 RCW. Council review of a final plat is strictly limited to the questions of whether the final plat is consistent with the findings, conclusions and conditions specified for the preliminary plat. Environmental considerations and satisfaction of review criteria specified by Section 17.14.030 and RCW 58.17.110 which are not relevant to the findings, conclusions or decision for the preliminary plat cannot be raised during the review of a final plat but must be raised at the time for reviewing the preliminary plat or they are waived. When the ~~Engineering Manager~~ Community Development Director finds that the subdivision meets the following criteria, he or she shall recommend approval the proposed final plat if:

- A. The plat conforms to all terms of preliminary plat approval;
- B. The bond, if there is one, by its essential terms assures completion of improvements;
- C. The plat meets the requirements of State law and this Title in effect at the time of preliminary plat approval.

After the City Council approves the plat, the Community Development Department shall forward the original to the County Auditor for filing, who shall, after recording, forward two reproducible copies thereof to the City Engineer and one paper copy to the County Assessor-Treasurer.

Section 42: A new Section 17.18.005 LMC entitled “Conditions of Approval and Construction of Subdivision Infrastructure,” is created to read as follows:

The creation of new lots and building sites requires that certain infrastructure be provided to serve the planned development. In addition, provisions must be made for maintenance of common infrastructure and implementation of development controls. It is the responsibility of the subdivision developer to install the infrastructure to serve the

subdivided land. Infrastructure will normally include roadways to serve the lots of the subdivision, utilities (including electricity, gas, water and sanitary sewage disposal), stormwater management, and fire protection. Additional improvements may be required to mitigate environmental or other impacts of a subdivision. Prior to the approval and recordation of the Final Map, the City will require that all of the conditions of approval for the preliminary plat be satisfied.

Section 43: Section 17.18.010 LMC entitled “Dedications,” is amended to read as follows:

A. General. Dedication of land for road right-of-way and other purposes may be required. All dedications shall be clearly and precisely indicated on the face of the plat as approved by the City. Improvements and easements to maintain such improvements may be required to be dedicated.

B. Access to Public Waters. Plats of subdivisions containing land ~~adjacent to publicly owned or controlled bodies of water~~ subject to the provisions of the Shoreline Management Act shall contain dedications of public access to, around or beside the regulated waterbody such bodies of water consistent with the City’s Shoreline Master Program, unless the Examiner determines the public use and interest will not be served thereby. Such dedications shall be of a size and nature as determined by the Examiner and shall be established when the preliminary plat is approved. Such dedications may be required only when in compliance with all standards governing regulatory takings.

C. Constructed to City Standards. All streets, bridges, drains, culverts and related structures and facilities which are dedicated, shall be designed and constructed in accordance with current standards promulgated by the Engineering Manager and in effect at the time of construction.

Section 44: Section 17.18.020 LMC entitled “Improvements Required,” is amended to read as follows:

A. ~~Plan and profiles required.~~ Permits required. All subdivision improvements shall be constructed in accordance with an approved site development permit.

Prior to the construction of an improvement, the developer shall submit to the City Engineer, ~~two (2) an application for a site development permit including~~ copies of the plan, profiles and specifications for said streets, drainage, utilities and other proposed improvements to be constructed in the proposed subdivision. Plans and profiles shall be drawn upon standard 22" x 36" ~~Federal Aid Plan~~ profile sheets or such other sheets as may be acceptable to the City Engineer. Prior to construction, the construction plans for any dedicated improvement must be approved by the City Engineer and construction plans for other improvements may be required to be approved. A site development permit or other appropriate permission shall be secured prior to commencement of construction.

B. Flood or Geological Hazard. If any portion of the land within the boundaries ~~shown on any map or plat~~ of a ~~division of land whether~~ formal plat or short plat ~~or large lot division~~

plat, is subject to flood hazard, inundation, geological hazard, mud slides or avalanches, as such conditions may be, but need not be, indicated in the most recent national flood insurance program, flood hazard boundary map (FHBM) for Pierce County, Washington or other authoritative data, and the probable use of the property will require structures thereon or nearby, the Hearing Examiner or departmental reviewer may disapprove the subdivision, ~~short subdivision or large lot division or that portion of the subdivision, short subdivision or large lot division~~ so affected, and/or require protective improvements to be constructed as approved by the City, as a condition precedent to final approval and recordation of the subdivision, short subdivision or ~~large lot division~~ binding site plan map. If any portion of a lot or parcel of a subdivision is subject to flood hazard, inundation, geological hazard, mud slides or avalanches, such fact and portion shall be clearly shown on the final map or parcel map by a prominent note on each sheet of such map whereon any portion is shown. No subdivision, short subdivision or ~~large lot division~~ binding site plan shall be approved by the Examiner or departmental reviewer which is situated wholly or partially within a flood control zone as provided in Chapter 86.16 RCW without the prior written approval of the Department of Ecology.

C. Storm Drainage Containment. The City shall, as a condition of approval of any division of land, whether formal subdivision or short subdivision or ~~large lot division~~ binding site plan, require the developer to construct storm drainage facilities in conformance with the City's surface water design standards.

D. Fire Protection. The developer shall, at the developer's expense, provide water sources ~~and/or~~ facilities as required by law. Subdivisions shall provide fire hydrants (or other adequate means) with adequate capacity and spacing to provide for fire protection.

E. Sanitary Sewer Pipe Installations. The City may condition the approval of any plat upon the developer's installation of sanitary sewer connections and pipes properly constructed according to City standards.

Section 45: Section 17.18.030 LMC entitled "Names and Numbers of Subdivisions, Streets, Blocks and Lots," is amended to read as follows:

A. General. In order to promote an orderly and coherent street and property location system, street names and numbers in subdivisions, short subdivisions and ~~large lot divisions~~ binding site plans shall be assigned in accordance with the procedures and guidelines established herein.

B. Subdivision Names and Numbers. Subdivision names shall be chosen by the applicant subject to approval by the Community Development Department. The Community Development Department shall approve the proposed name if it is reasonably distinguishable from previously established subdivision names. The legal identification of short plats and binding site plans ~~large lots~~, if any, shall be designated by number and assigned by the County Auditor at the time of recording.

C. Street Names and Numbers. All public and private streets established by subdivision,

short subdivision or binding site plan ~~large lot division~~ shall have street names or numbers assigned and clearly shown on the plats prior to approval and recording. Street names and numbers shall be assigned by the Community Development Director. Private streets shall be clearly labeled on the face of the plat.

D. Blocks and Lots. Blocks and lots established for purposes of legal description of subdivided property shall be named and numbered in accordance with procedures and guidelines established by the City Engineer.

E. Addresses in new subdivisions shall be assigned by the Building Official pursuant to Section 501 of the International Building Code.

Section 46: Section 17.18.050 LMC entitled “Bonds – Construction and Guarantee,” is amended to read as follows:

The City, in lieu of actual construction of any improvement by the developer of any formal subdivision, short subdivision or ~~large lot division~~ binding site plan, ~~shall require~~ may accept a bond in an amount and with surety and conditions satisfactory to it or other secure methods providing for and securing to the City, the actual construction and installation of such improvements within a two year period. The City Engineer may refuse to accept a security in lieu of actual construction where redemption of the security is seen to be problematic, or where the improvements are required immediately to ensure public safety and proper functioning of the development. All improvements such as structures, streets, sewers, drainage facilities and water systems shall be designed and the construction certified by, or under the supervision of, a registered civil engineer prior to the acceptance of such improvements. Improvements must be completed prior to final building inspection approval and occupancy of any new structures within the subdivision.

The developer shall be responsible for correcting any defect in an improvement for a period of eighteen months after acceptance by the City Engineer.

The City shall require a bond to guarantee that the developer will correct any defect in a dedicated improvement caused by faulty design, construction or other reason as determined by the City Engineer. Said bond shall be in an amount equal to 125% of the estimated cost of the City completing the improvements, as determined by the City Engineer, and shall extend for a period of eighteen months after City acceptance of said improvement.

Section 47: Chapter 17.22 LMC entitled “Short Subdivisions – Large Lot Divisions,” is retitled, “Short Subdivisions,” as follows:

**17.22.000 - Short Subdivisions** ~~**-Large Lot Divisions**~~

Chapter 17.22  
Short Subdivisions ~~Large Lot Divisions~~

Sections:

17.22.010 Applicability.

17.22.020 Filing Procedure and Fee.

17.22.025 ~~Short Plat Approval~~ [Determination of Complete Application.](#)

17.22.030 Owner's Free Consent.

17.22.035 Posting Requirements.

17.22.040 Survey.

17.22.050 Departmental Review.

17.22.060 Review Criteria.

17.22.070 ~~Summary Preliminary~~ [Approval.](#)

17.22.080 Notice.

17.22.090 Appeal Procedure.

[17.22.095 Final Short Plat Approval](#)

17.22.100 Amendments.

~~17.22.110 Large Lot Division.~~

Cross-references: Chapter 58.09 RCW, Chapter 332-130 WAC

Section 48: Section 17.22.010 LMC entitled "Applicability," is amended to read as follows:

Every short plat and short subdivision shall comply with the provisions of this Chapter.

A. Exemptions. The provisions of this Chapter are not applicable to the following:

1. All exemptions listed in Section 17.02.010.

2. Deed releases, for the purpose of obtaining building financing, provided that a short plat is required if said parcel is separately sold or if all land specified by the contract is not acquired.

3. Divisions which were surveyed in accordance with the Survey Recording Act and are recorded with the Auditor prior to August 13, 1974.

4. Up to four Model Homes may be ~~established~~ [constructed](#) on a single tract of land without short platting provided the City has approved a preliminary subdivision which includes the specific lots upon which the Model Homes are to be located. [The subdivision shall be completed and the final map recorded prior to the sale of any of the model home units.](#)

5. Divisions made by court order; provided, that this exemption shall not apply to land divided pursuant to dissolution or any partition proceedings.

6. Any division of land for use solely for the installation of electric power,

telephone, water supply, sewer service or other utility facilities of a similar or related nature; provided, however, that any remaining lot or lots are consistent with applicable zoning and land use plans.

7. Any division or divisions of land for the sole purpose of enabling the City or other public agency to acquire land, either by outright purchase or exchange, for port purposes, boat moorage or launching sites, or for park, viewpoint, recreational, educational or other public purposes; provided, however, that any remaining lot or lots are consistent with applicable zoning and land use plans.

B. The entire original tract (except adjacent platted or short platted land) shall be included within one short plat application.

C. Further divisions. Land within a short subdivision shall not be further divided in any manner for a period of five (5) years from the date said approved short plat is recorded with the Auditor without the filing of a final plat on the land which is proposed to be further divided, except that when the short plat contains fewer than nine parcels, the owner who filed the short plat may file an alteration with the five (5) year period to create a total of up to nine (9) lots within the original short plat boundary. This requirement shall be stated on the face of the short plat.

Section 49: Section 17.22.020 LMC entitled "Filing Procedure and Fee," is amended to read as follows:

An application for a short subdivision shall include a completed application form, Eleven six (6) full size paper prints and six (6) 11"x 17" reduced copies of the -proposed short plat showing all required information shall be filed with the Community Development Department along with a non-refundable applica-tion fee as set forth in separate Resolution.

For purposes of RCW 58.17.033, a complete application for short plat approval must contain the information and documents required by this section.

A short plat shall meet the following standards:

A. Drawn in ink to a scale not smaller than one inch equals one hundred feet (1" = ~~100~~ 50') or other approved scale ~~on r-mylar,~~ a sheet size of 18" x 24".

B. The Plat shall show the boundary and dimensions of the "original tract" including its Assessor's parcel number, section, township and range, and all adjoining public or private streets and identifying names as such.

C. A vicinity map drawn to a scale of four inches equals one mile (4"= 1 mile) or other approved scale of sufficient detail to orient the location of the original tract.

D. Name and address of the owner of record of the "original tract," scale of the drawing, and north directional arrow.

E. All lots shall be identified by numerical designation. The dimensions of each lot shall be shown.

F. Width and location of access to all short platted lots.

G. The location and use of all existing buildings on the original tract.

H. Space on a second 18" x 24" mylar plat map sheet shall be reserved for comments and appropriate City signatures.

I. Where a survey is required, the form of the plat shall be as required by the Survey Recording Act. (Chapter 50 Washington Laws of 1973, or as amended.)

Section 50: Section 17.22.025 LMC entitled "Short Plat Approval," is retitled, "Determination of Complete Application," and amended to read as follows:

Within 28 days of receiving an application for preliminary plat approval containing all information required by Section 17.22.020 of this Code, the Community Development Department shall issue a determination of completeness or incompleteness as required by RCW ~~36.70.A.440~~ 36.70B.070. The Community Development Department is responsible for complying with all other requirements of RCW ~~36.70.A.440~~ 36.70B.070.

Section 51: Section 17.22.035 LMC entitled "Posting Requirements," is amended to read as follows:

After acceptance of a short plat application, notice of application shall be posted ~~by the applicant on the property at its principal entry point to the nearest right-of-way, as determined by the Community Development Department in accordance with the provisions of LMC 18A.02.670.~~

~~Notice will be posted on a 1-1/2' x 2' waterproof sign (see drawing #16 in Appendix A). The sign shall be made of corrugated plastic to specifications provided by the City. If desired, a sign may be purchased from the City at a cost to be determined by the manufacturing cost at the time of purchase. The sign(s) shall be located so as to be easily visible from the abutting street. When more than one street abuts the property, the sign(s) shall be easily visible from each street. When a proposal is within an existing subdivision, planned development district or planned unit development, an additional sign shall be posted at each major street entrance to the development as determined by the Community Development Department. When the sign(s) is posted, the applicant shall complete and return a notarized affidavit of posting to the Community Development Department. The sign(s) shall be erected and maintained by the applicant for a minimum of thirty (30) days prior to the public hearing and until a decision is rendered on the application or appeal.~~

~~The sign(s) shall be removed by the applicant within one (1) week following the decision by the Hearing Examiner or City Council. (Ord. 60 ? 1 (part), 1996.)~~

Section 52: Section 17.22.040 LMC entitled "Survey," is amended to read as follows:

Recordable surveys shall be required for all short plats and short subdivisions. All surveys shall be accomplished as required by WAC 332-130 and the "Survey Recording Act," (RCW 58.09), except an additional recording will not be required for the "Survey Recording Act."

All lot staking shall be completed by the certifying professional land surveyor prior to the recording of the short plat.

All short plat corners, including interior lot corners, shall be staked with steel rebar or metal pipe with a cap which permanently bears the land surveyor's registration number. When the plat corner(s) or lot corner(s) falls in a body of water, over the edge of a steep slope or other inaccessible area, an offset corner will be permitted. When the boundary line of a short plat follows a meandering line, corners shall be set as directed by the City. A pre-submittal meeting with City staff to discuss corner locations is recommended.

When the legal description of the short plat utilizes a partial or complete section subdivisional breakdown to establish the short plat boundaries, section subdivision survey information in accordance with the requirements of WAC 332-130-030 shall be shown on the short plat ~~mylar~~ [map](#).

All reference monuments used in the establishment of the short plat corners shall be identified, described, and noted as set or found on the short plat ~~mylar~~ [map](#). When appropriate, the short plat survey shall reference the recorded or previous survey that was the basis for the short plat survey.

When the short plat is adjacent to a constructed City street and the short plat corner(s) or its offset represents a 1/16th corner, quarter corner, section corner, or donation land claim corner that is not of record or is lost or obliterated, a City standard monument(s) shall be placed in the City street. In cases where a monument of record is found, the existing corner does not have to be replaced.

Whenever a short plat is adjacent to an existing City street ~~and/or~~ right-of-way, the centerline of that street shall be located on the short plat drawing. If the existing constructed City street or maintained street section falls outside of the documented right-of-way, the surveyor shall identify the existing edge of pavement and limits of the maintained street section on the short plat drawing and show its relationship to said centerline.

Section 53: Section 17.22.050 LMC entitled "Departmental Review," is amended to read as follows:

A. The Engineering Manager's Office shall review a short plat for adequacy of access, storm water drainage facilities, public sewer system, survey accuracy, and feasibility for building sites.

B. The Community Development Department shall review the proposed short plat for conformance with the Land Use and Development Code (LMC Title 18A), other applicable land use zoning laws, the comprehensive plan and the subdivision code.

C. The Tacoma-Pierce County Health Department shall review the proposed short plat for adequacy of potable water supply, and septic tank conditions provisions for sanitary sewage disposal. The Lakewood Water District, or other water provider, shall provide information regarding the public water system. This will typically be in the form of a Letter of Water Availability from the District.

D. The Fire Chief shall review the proposed short plat for adequacy of the fire protection water system and access for fire fighting equipment.

E. The Pierce County Assessor's Office shall review the proposed short plat with regard to map and document format, tax status, and legal description.

F. The Pierce County Sewer Utility shall review the project with regard to sanitary sewer availability, appropriate easements, and details of any sanitary sewer infrastructure and connections.

The City may require that any review fees payable to outside agencies be made directly with that agency prior to submittal of the short plat application.

Section 54: Section 17.22.060 LMC entitled "Review Criteria," is amended to read as follows:

A. Access.

1. General. The proposed short plat shall be reviewed for adequate ingress and egress to all proposed lots. Extension of streets or access rights from property line to property line of the short subdivision land may be required so that the street may be extended in the future. If there is other reasonable access available, the Engineering Manager may limit the location of direct access to City arterials or other City streets. When an adjoining landowner will be obligated to construct or maintain a future street, a note to this effect shall be stated on the face of the short plat.

2. Street Reserved Areas. Where a City arterial may, or is being planned for a short subdivision land area, the Engineering Manager may require that a sixty foot (60') wide right-of-way area be reserved as a street reserved area for a future street, if all legal requirements for such a dedication are met.

3. Private Streets. Private streets are not normally permitted, but may be allowed when the Community Development Director and City Engineer determine that the most logical development of the land requires that the lots be served by private streets or easements. Private street plats shall be reviewed per Chapter 17.26 of this title.

~~Unless the City has existing plans, maps, sketches or studies for a City arterial on the properties in issue, the Engineering Manager shall approve private streets if all persons and their successors, who own the land adjoining the street within the short plat, have equal legal rights to use said private street area. Said developer and/or adjoining landowners and their successors shall bear the expense of constructing and maintain said street and a note to this effect shall be made on the face of the short plat. Where the short plat or land beyond the short plat have the potential of being divided into twenty (20) or more lots, then said private street shall be required to have a right-of-way width equivalent to city standards.~~

B. Drainage. The proposed short plat shall be reviewed for adequate drainage facilities. Requirements for any necessary facilities may be required to be written on the face of the short plat ~~mylar~~ map.

C. Sewers or Septic Tanks. The proposed short plat shall be reviewed for potential sewer or septic tank adequacy. If known local conditions exist which may affect future building sites, these conditions may be required to be stated on the face of the short plat.

D. Feasibility for Building Sites. Areas which are known or suspected to be poor building sites because of geological hazard, flooding, poor drainage or swamp conditions, mud slides or avalanche, may be noted on the face of the short plat.

E. Water Supply and Fire Protection. The proposed plat shall be reviewed for potential adequacy of water supply and fire protection. Items A through E above may be considered as criteria for which a short plat may be denied. Existing City standards shall be used during the review process.

Section 55: Section 17.22.070 LMC entitled "Summary Approval," is retitled, "Preliminary Approval," and amended to read as follows:

A. Procedure.

An application for a short plat shall be reviewed as a Process II permit type, which does not require a public hearing but does provide for public notice and comment. (See LMC 18A.02.545). The initial decision on a short plat application is made by the Community Development Director. The Director's decision may be appealed to the City's hearing examiner.

1. Upon receipt of a complete application for a short plat, The Community Development Department shall forward two paper prints copies of the application and short plat map to the Engineering Manager and/or Public Works Department Director, the

Fire Marshal, the Pierce County Assessor's Office, the Pierce County Public Works Sewer Utility, the Lakewood Water District, any affected public utility agencies, ~~the Fire Chief,~~ and the Tacoma-County Health Department. The initial review by the departments/agencies of the proposed short plat shall be completed within fifteen (15) ~~thirty~~ days ~~after the short plat is filed,~~ unless, upon the request of the Community Development Department, the applicant consents to an extension of such time period. The proposed preliminary short plat shall be considered under the subdivision regulations and zoning or other land use control ordinances in effect at the time a fully completed application for preliminary short plat approval has been submitted to the city.

2. Each department or official shall either recommend approval, disapproval, or revision~~turn~~ of the short plat for change within the fifteen~~thirty~~ day initial review period. The Community Development Director shall have the final authority to approve, approve with conditions or deny a short plat application.

3. If returned for revision ~~change~~, the applicant or representative shall submit six prints and the mylar to the Community Development Department reflecting the required revisions ~~changes~~ within one hundred eighty-sixty days, after any said notice of correction is given ~~review comments are provided~~ by the reviewing agencies ~~City departments~~. Should the applicant require an extension of time to satisfy the requirements that were requested during the initial fifteen~~thirty~~-day review, an additional one hundred eighty days ~~shall time may~~ be granted upon written request.

4. Due to the complexity of the proposal, the applicant may desire to request the following to extend the life of the application.

a. Request in writing from the applicant that the application for the proposed short plat be placed on hold for due cause. "Due cause" would constitute a situation that was beyond the applicant's controls; i.e., required environmental checklist, Health Department requirement for viewing high water table on the site prior to review for waste disposal, and/or water availability report required by the State.

The request shall be accompanied by an estimated time line for completion of the required additional material, studies, or review. The hold will be placed upon the application for a specified period of time.

b. Request in writing by the applicant that a time extension would be necessary to provide the reviewing departments the necessary material, documents, and studies, as requested in the initial thirty day ~~City~~ review. The Community Development Department may provide a second additional extension, not to exceed one hundred eighty days ~~extension~~. A fee would may be charged for the extended time, per the fee schedule.

c. Any applicable time limitations for processing an application, including time limits set forth in RCW 36.70B, RCW 58.17, LMC Title 18A, or this Title, shall be tolled while the applicant responds to requests for revision or additional information within the timeframes set forth in this section.

5. The applicant is required to submit the revisions as requested, at the expiration of the allowable time line, along with six prints ~~and the mylar~~ to the Community Development Department. ~~The submittal shall be considered the "FINAL REVIEW" and all previous extensions that were granted to the applicant shall be considered void.~~ The reviewing departments shall have a ~~thirty-day~~ fourteen (14) day review period to consider the revised plans. At the conclusion of the review period, the reviewing department directors or authorized representatives shall notify the applicant whether the application is complete or what additional information is necessary (RCW 36.70B.070 (4)(b)). ~~approve or deny the short plat.~~

6. If the project applicant does not respond to requests for project amendments or additional information within the timeframes specified herein, the Community Development Department may deny the application without prejudice.

B. Required Written Findings for Short Subdivisions. The Community Development Director or designee shall inquire into the public use and interest proposed to be served by the establishment of the short subdivision and dedication. ~~The Director or designee shall determine:~~

~~1. If appropriate provisions are made for, but not limited to the public health, safety, and general welfare, for open spaces, drainage ways, streets or streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, play-grounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and~~

~~2. Whether the public interest will be served by the short subdivision and dedication.~~

~~C.~~ A proposed short subdivision and dedication shall not be approved unless the Director or designee makes written findings that:

1. Appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or streets, alleys, other public ways, transit stops, potable water supplies time limits, sanitary wastes, parks and recreation, play-grounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and

2. The public use and interest will be served by the platting of such subdivision and dedication. If the Director or designee finds that the proposed short subdivision make such appropriate provisions and that the public use and interest will be served, then the Director or designee shall approve the proposed short subdivision and dedication.

~~CD.~~ Notice of Return to Applicant for Cause. If a short plat is not in proper order or cannot be approved in its present form, a letter accompanied by said print, postmarked

prior to the expiration of said thirty-day period, shall be sent to the applicant (by the disapproving department) to notify him of why approval cannot be given in its present form.

DE. Effect of Approval. The Community Development Director's initial approval shall set forth the findings required by Section B above, and may include specific conditions of approval. All required improvements must be installed and a copy of the final short plat map that responds to any conditions of approval must be submitted within three (3) years of the date of the initial approval for final review and recording. An additional one year extension of time may be granted by the Community Development Director upon a showing of good cause beyond the control of the applicant that has delayed the ability of the applicant to complete the subdivision. The approval of a short plat shall not be a guarantee that future permits will be granted for any structures or development within said area and a notation to this effect shall be stated on the face of the short plat. Provided further that land in short subdivisions may not be further divided in any manner within a period of five years without the filing of a preliminary and final plat, except that when the short plat contains fewer than nine parcels, the owner may file a short plat alteration or new short plat application within the five-year period to create up to a total of nine lots within the original short plat boundaries. Any such alteration application shall be reviewed *de novo* on its own merits.

Section 56: A new Section 17.22.095 LMC entitled "Final Short Plat Approval," is created to read as follows:

Upon completion of any and all conditions of the preliminary short plat approval, or alternatively, the posting of an appropriate performance bond or cash deposit in lieu thereof to the satisfaction of the City Engineer, the developer shall present to the Community Development Department one copy of the approved short plat map for final approval and recordation. The final short plat map shall contain a certificate giving a full and correct description of the lands divided as they appear on the plat drawing, including a statement that the subdivision of property has been made with the free consent and in accordance with the desires of the owner(s) or contractor purchasers. If the subdivision of property includes a dedication, the certification shall also contain the dedication of all streets and other areas to the public, and any other required dedications as required by LMC 17.16.020. Said certificate shall be signed and acknowledged before a notary public by all parties having any interest in the lands subdivided.

The Community Development Department shall arrange for all responsible agencies to sign the plat map, provided that the applicant may secure required approval signatures on the final plat map prior to submittal to the Community Development Department.

Pursuant to RCW 58.17.140(2), a final short plat map shall be approved, disapproved, or returned to the applicant within thirty days from the date of filing thereof, unless the applicant consents to an extension of such time period.

Development of lots created in a final short plat shall be regulated by the land use controls in effect at the time that the complete preliminary short plat application was filed, for a period of two (2) years from the date of the final short plat recordation. After two years, the lots created by the short plat shall be regulated by the land use controls then in effect.

Section 57: Section 17.22.110 LMC entitled “Large Lot Division,” is repealed

**17.22.110 – Large Lot Division**

~~A. Departmental Review. Large lot divisions shall be reviewed by all departments and agencies herein specified for short plats and in accordance with procedures herein specified for short plats, provided that approval shall not be automatic.~~

~~B. Approval Standards. Large lot divisions shall be subject to the same review criteria as herein specified for short plats. Approvals shall comply with 58.17.060 and 58.17.110 RCW.~~

~~C. Posting Requirements. After acceptance of a large lot application, notice of application shall be posted by the applicant on the property at its principal entry point to the nearest right-of-way, as determined by the Department of Community Development. Notice will be posted on a 1-1/2' x 2' waterproof sign. The sign shall be made of corrugated plastic to specifications provided by the City (see drawing No 1, Appendix A). If desired, a sign may be purchased from The City at cost to be determined by the manufacturing cost at the time of purchase. The sign(s) shall be located so as to be easily visible from the abutting street. When more than one street abuts the property, the sign(s) shall be easily visible from each street. When a proposal is within an existing subdivision, planned development district or planned unit development, an additional sign shall be posted at each major street entrance to the development as determined by the Department of Community Development. When the sign(s) is posted, the applicant shall complete and return a notarized affidavit of posting to the Department of Community Development. The sign(s) shall be erected and maintained by the applicant within seven (7) days of the date of application and continue through the appeal period or until a decision is rendered on the appeal. The sign(s) shall be removed by the applicant within one (1) week following the decision on the application or appeal.~~

~~D. Preparation. Large Lot divisions shall be drawn and shall meet the drafting standards as herein specified for short plats.~~

~~E. Recording of Surveyed Divisions. After obtaining the reviewing authorities' approval, the County Assessor-Treasurer's Office approval must be obtained to verify that the real estate taxes are current. After obtaining said approvals all large lot divisions shall be recorded with the County Auditor and the Auditor shall collect the applicable recording fee. Each lot within the large lot division shall be numbered. Thus, future legal descriptions of a certain recorded large lot division may be referred to as “Lot of Large~~

~~Lot Division No. .” The latter blank space will be the description assigned to the large lot division by the Auditor.~~

~~F. Fees, Appeals and Amendments. A non-refundable filing fee, as set forth by separate Resolution, shall accompany a large lot division when it is filed for approval with the Community Development Department. Appeals of any reviewing decision on a large lot division may be made by the Examiner. The appeal procedure and fee is the same as that herein set forth for short plats. Amendments to a large lot division shall be processed in the same manner as that herein set forth for short plats.~~

~~G. Five-Year Short Plat Restriction. Large lot divisions, or any portion thereof, shall not be further divided by short subdivision within five (5) years of the date of large lot division approval.  
(Ord. 60 ? 1 (part), 1996.)~~

Section 58: Section 17.30.010 LMC entitled “Purpose,” is amended to read as follows:

The purpose of this chapter is to create a permit an alternative method for dividing commercially and industrially zoned property, as authorized by RCW 58.17.035. On sites which are fully developed, the binding site plan merely creates or alters interior lot lines. In all cases the binding site plan ensures, through written agreements among all lot owners, that the collective lots continue to function as one site concerning but not limited to: lot access; interior circulation; open space; landscaping and drainage; facility maintenance; and coordinated parking.

Section 59: Section 17.30.020 LMC entitled “Applicability,” is amended to read as follows:

A. Any person seeking the use of a binding site plan to divide the person’s property for the purpose of sale, lease or transfer of ownership of commercially or industrially zoned property is required to apply for, complete and have approved a binding site plan prior to any property division, as provided in RCW 58.17 and as required by this chapter.

B. The site which is subject to the binding site plan shall consist of one (1) or more contiguous lots legally created.

C. The site which is subject to the binding site plan may be reviewed independently for fully developed sites; or, concurrently with a commercial site development permit application for undeveloped land; or in conjunction with a valid commercial site development permit.

D. The binding site plan process merely creates or alters lot lines and does not authorize substantial improvements or changes to the property or the uses thereon. Improvements shall be authorized through separate zoning and building permit processes. New improvements shall be incorporated into the binding site plan as appropriate.

Section 60: Section 17.30.030 LMC entitled “Complete Application,” is amended to read as follows:

A proposed binding site plan shall be considered under the zoning and other land use control ordinances in effect on the land at the time a fully completed application is filed with the department. A complete application for binding site plan ~~application approval~~ shall consist of:

A. A completed application form provided by the department, signed by all property owners or their authorized agents, with supporting documents as required below and which contains sufficient information to determine compliance with adopted rules and regulations including, but not limited to RCW 43.21C, SEPA as implemented by WAC 197-11; Surface Water Management; Roads Standards; Fire Code; City Environmental Procedures; Zoning; Shoreline Management; and administrative rules adopted to implement any such code or ordinance provision; ~~Tacoma-Pierce County Health Department Board of health~~ rules and regulations; and City approved utility comprehensive plans;

B. Six (6) full size and six (6) 11”x 17” reductions of an An-approved commercial site development permit; or, a proposed site plan prepared by a professional land surveyor, licensed in the State of Washington, in a form prescribed by the Director. At a minimum, the proposed site plan shall include:

1. The location and size of all proposed units or lots;
2. Proposed and existing structures including elevations and floor plans as known, (plans which show building envelopes rather than footprints must address include post-construction treatment of unoccupied areas of the binding envelopes);
3. All proposed or existing uses;
4. The location of proposed or existing open space including any required landscaped areas.
5. The location and identification of critical areas;
6. The layout of an internal vehicular and pedestrian circulation system, including proposed ingress and egress for vehicles;
7. The number and location of proposed or existing parking spaces on and off the site;
8. A drainage plan which will accommodate the maximum proposed square

footage of impervious surface and the maximum proposed square footage of impervious surface exposed to vehicular use, subject to the requirements of City's Surface Water Design Manual or other city surface water design standards.

9. The location and size of utility trunk lines [and service laterals](#) serving the site;
  10. The location and size of water bodies and drainage features, both natural and manmade;
  11. A grading plan showing proposed clearing and tree retention and the existing and proposed topography, detailed to five-foot contours, unless smaller contour intervals are otherwise required by the City Code or rules and regulations promulgated thereunder;
  12. A layout of sewers and the proposed water distribution system;
  13. Proposed easements and access; and
- C. A completed environmental checklist, if required by the State Environmental Policy Act and implementing ordinances;
- D. A downstream drainage analysis or any other requirement specified in the City's Surface Water Design Manual, Site Development Regulations or Surface Water Policy Ordinance;
- E. All covenants, easements, maintenance agreements or other documents regarding mutual use of parking and access;
- F. Copies of all easements, deed restrictions or other encumbrances restricting the use of the site;
- G. A phasing plan and time schedule, if the site is intended to be developed in phases or if all building permits will not be submitted within three years;
- H. Documentation of the date and method of segregation for the subject property ([original tract](#)) verifying that the lot or lots were not created in violation of the short subdivision or subdivision laws in effect at the time of creation;
- I. A list of any other development permits or permit applications having been filed for the same site; and
- J. The payment of fees;
- K. The Community Development Director may waive specific submittal requirements determined to be unnecessary for review of the application.

Section 61: Section 17.30.040 LMC entitled “Determination of Completeness,” is retitled, “Determination of Complete Application,” and amended to read as follows:

Within 28 days of receiving an application for binding site plan approval containing all information required by Section 17.~~0630~~.030 of this Code, the Community Development Department shall issue a determination of completeness or incompleteness as required by RCW ~~36.70.A.440~~ 36.70B.070. The Community Development Department is responsible for complying with all other requirements of RCW ~~36.70.A.440~~ 36.70B.070.

Section 62: Section 17.30.045 LMC entitled “Approval,” is retitled, “Review and Approval,” and amended to read as follows:

A. Procedure.

An application for a binding site plan shall be reviewed as a Process II permit type, which does not require a public hearing but does provide for public notice and comment. (See LMC 18A.02.545). The initial decision on a binding site plan application is made by the Community Development Director. The Director’s decision may be appealed to the City’s hearing examiner.

1. Upon receipt of a complete application for a binding site plan, the Community Development Department shall forward copies of the application and binding site plan map to the Public Works Department, the Fire Marshal, the Pierce County Assessor’s Office, the Pierce County Public Works Sewer Utility, the Lakewood Water District, any affected public utility agencies, and the Tacoma-County Health Department. The initial review by the departments/agencies of the proposed binding site plan shall be completed within fifteen (15) days, unless, upon the request of the Community Development Department, the applicant consents to an extension of such time period.

2. Each department or official shall either recommend approval, disapproval, or revision of the binding site plan application within the fifteen day initial review period.

3. If returned for revision , the applicant or representative shall submit six prints to the Community Development Department reflecting the required revisions within sixty days after any review comments are provided by the reviewing agencies. Should the applicant require an extension of time to satisfy the requirements that were requested during the initial thirty-day review, additional time may be granted upon written request.

4. Due to the complexity of the proposal, the applicant may desire to request the following to extend the life of the application.

a. Request in writing from the applicant that the application for the proposed binding site plan be placed on hold for due cause. "Due cause" would constitute a situation that was beyond the applicant's controls; i.e., required environmental checklist, Health Department requirement for viewing high water table on the site prior to review for waste disposal, or water availability report required by the State.

The request shall be accompanied by an estimated time line for completion of the required additional material, studies, or review. The hold will be placed upon the application for a specified period of time.

b. Request in writing by the applicant that a time extension would be necessary to provide the reviewing departments the necessary material, documents, and studies, as requested in the initial City review. The Community Development Department may provide a second additional extension, not to exceed one hundred eighty days. A fee may be charged for the extended time, per the fee schedule.

c. Any applicable time limitations for processing an application, including time limits set forth in RCW 36.70B, RCW 58.17, LMC Title 18A, or this Title, shall be tolled while the applicant responds to requests for revision or additional information within the timeframes set forth in this section.

5. The applicant is required to submit the revisions as requested, at the expiration of the allowable time line, along with six prints to the Community Development Department. The reviewing departments shall have a fourteen (14) day review period to consider the revised plans. At the conclusion of the review period, the reviewing department directors or authorized representatives shall recommend approval, approval with conditions, or denial of the binding site plan.

#### B. Review Criteria

The Community Development Director shall consider and base a decision to approve with or without conditions, deny, or return the application for modifications, based on:

1. Aa finding that the newly created lots or units will continue to function and operate as one site, for fully developed sites; or

2. Ce conformity of the proposed site plan with the adopted rules and regulations listed in Section 17.30.030.A as represented in the approved site development plan, if the binding site plan is being considered with a site development plan.

3.B. The binding site plan shall contain applicable inscriptions or attachments setting forth limitations and conditions to which the plan is subject, including any applicable irrevocable dedications of property and containing a provision requiring that any development of the site shall be in conformity with the approved site plan.

4.C. The Director may modify lot-based or lot line requirements contained with the building, fire and other similar uniform codes adopted by the City.

5D. The Director may authorize sharing of open space, parking, access and other improvements among contiguous properties subject to the binding site plan. Conditions of use, maintenance and restrictions on redevelopment of shared open space, parking,

access and other improvements shall be identified on the binding site plan and enforced by covenants, easements or other similar mechanisms.

6E. The decision of the Director ~~shall be final~~ may be appealed to the City's hearing examiner per LMC 18A.02.740.

Section 63: Section 17.30.050 LMC entitled "Recording and Binding Effect," is amended to read as follows:

A. Prior to recording, the approved binding site plan shall be surveyed and the final recording forms shall be prepared by a professional land surveyor, licensed in the state of Washington. Surveys shall include those items prescribed by RCW 58.09.060, records of survey, contents - record of corner, information;

B. The approved binding site plan recording forms shall include the following, in the format prescribed by the Director:

1. Lots designated by number on the binding site plan within the area of the lot. Tracts shall be similarly designated and each tract shall be clearly identified with the ownership and purpose;

2. Signature and stamp of the land surveyor who prepared the binding site plan;

3. Reference to the recording number of the completed survey as required by this section if the boundaries have been previously surveyed;

4. Reference to all agreements or covenants required as a condition of approval;

5. Notarized signatures of all persons having an ownership or security interest in the land being divided;

6. Approval of the City Engineer ~~Engineering Manager~~;

7. Approval of the Director.

C. The Director shall examine and sign the approved binding site plan if it conforms with the commercial site development permit or the approved site plan and all conditions of approval. Binding site plans shall be recorded with the Pierce County ~~Records and Elections Division~~ Auditor's Office with a record of survey.

D. Lots, parcels, or tracts created through the binding site plan procedure shall be legal lots of record. All provisions, conditions, and requirements of the binding site plan shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract created pursuant to the binding site plan.

E. Any sale, transfer, or lease of any lot, tract, or parcel created pursuant to the binding

site plan, that does not conform to the requirements of the binding site plan or without binding site plan approval, shall be considered a violation of chapter 58.17 RCW and shall be restrained by injunctive action and be illegal as provided in chapter 58.17 RCW.

F. Property subject to a binding site plan shall be governed by the terms of approval of the binding site plan, and the statutes and ordinances, and regulations in effect at the time of preliminary approval for a period of one (1) year. Any building permits issued pursuant to a binding site plan shall vest the specific improvement during the period that the building permit is active and valid. After one year, any new improvements shall be subject to the land use regulations and building codes then in effect, unless otherwise specified in the terms of the binding site plan approval.

Section 64: Section 17.30.070 LMC entitled “Administrative Rules,” is amended to read as follows:

As part of the binding site plan approval, the Director may promulgate administrative rules and regulations to implement the provision and the requirements of this chapter the terms of the binding site plan approval with regard to future land uses and development on the subject property.

Section 65: Section 17.34.010 LMC entitled “Applicability,” is amended to read as follows:

**17.34.010 – Applicability**

Binding site plans are required for residential condominium projects which propose to subdivide (overtly or in effect) land into separate lots. Binding site plans are not required for condominiums which hold the underlying land as a single undivided parcel.

A. This process may be used to divide land by the owner of any legal lot which is to be developed for residential condominiums pursuant to RCW 64.32. A binding site plan for a residential condominium project shall be based on either a recorded final planned unit development, a building permit issued for the entire project, or a conceptual site plan as set forth in Section 17.34.040 of this chapter.

B. This process is separate from other site plan review processes including the mobile home park plan, the planned unit development, and the manufacturing park site plan provisions of the Zoning Code, and shall not be construed to substitute for the requirements of such processes.

Section 66: Section 17.34.020 LMC entitled “Planned Unit Developments,” is repealed as follows:

Whenever a binding site plan for a residential condominium development is proposed on a parcel for which a final planned unit development has been recorded, a copy of the planned unit development site plan shall be recorded as the binding site plan upon verification by the Director that the binding site plan is the same as or contains the relevant details of the planned unit development site plan.

Section 67: Section 17.34.030 LMC entitled “Building Permits,” is retitled, “Binding Site Plan for Approved Residential Project,” and amended to read as follows:

Whenever a binding site plan for a residential condominium development is proposed on a parcel of land for which a building permit has been issued for the entire project, the following must be satisfied prior to recording:

- A. A plan shall be prepared in a form prescribed by the Director which is adequate for permanent retention by the Pierce County Auditor’s Office records and elections division.
- B. The plan must be prepared by a registered land surveyor or civil engineer.
- C. The plan must substantially reflect the site plan approved for the building permit. Specific details not relevant to the division of land may be omitted.
- D. The plan must be verified by the Director for compliance with the approved building permit. The Director may require dedication of additional right-of-way for public streets.
- E. The legal description and map must be verified by the City Engineer Engineering Manager.

Section 68: Section 17.34.040 LMC entitled “Conceptual Plans,” is amended to read as follows:

Whenever a binding site plan for a residential condominium project is proposed on a parcel of land for which ~~neither a planned unit development nor a building permit a development plan~~ has not yet been approved for the entire parcel, the following ~~must be satisfied prior to recording~~ plans must be submitted with the application:

- A. A conceptual site plan shall be prepared in a form prescribed by the Director which includes the following information:
  - 1. Maximum number of dwelling units permitted.
  - 2. Approximate size and location of all proposed buildings.
  - 3. Approximate layout of an internal vehicular circulation system, including proposed ingress and egress.
  - 4. Approximate location of proposed open space, including required landscaped areas, if any.
  - 5. Approximate location of proposed parking areas.
  - 6. Location and size of utility trunk lines serving the site.

7. Topography detailed to five-foot contours.

B. Upon application the Director shall distribute copies to public agencies having pertinent expertise or jurisdiction for review and comment.

C. The Director shall consider, and base his decision to approve with or without conditions, deny or return the binding site plan application on the following:

1. Conformance of the proposed site plan with ~~any approved building permit or planned unit development and any conditions on a portion of the site, and with any applicable codes and ordinances~~ of the State of Washington and the City. The Director shall identify, to the extent feasible, conditions likely to be imposed on building permits related to dedication of right-of-way or open space, and tracts, easements or limitations which may be proposed or required for utilities, access, drainage controls, sanitation, water supply, protection of sensitive areas or other unique conditions or features which may warrant protection of the public health, safety, and welfare. Such preliminary conditions ~~shall may~~ not be binding at the time of building permit approval, unless they would be required for the same project being developed without a binding site plan.

2. The recommendations and comments of agencies having pertinent expertise or jurisdiction.

3. The Director may require dedication of additional road right-of-way pursuant to city ordinance.

D. Additional documents shall be submitted as necessary for review and approval which may include a plat certificate, boundary survey, agreements, easements and covenants.

E. The development plan must be approved and signed by the City Engineer Engineering Manager.

F. Prior to recording, the Director shall verify the final plan and any attachments to determine whether the binding site plan is accurate and complete and complies with any conditions ~~or of~~ approval. Approval of a conceptual plan ~~does not give will provide~~ the applicant a vested right to build the approved project without regard to subsequent changes in zoning or building codes or other applicable land use regulations for a period of one (1) year from the date of the preliminary approval prior to application for a building permit on the subject property. Any building permits issued pursuant to the approved binding site plan shall vest the specific improvement during the period that the building permit is active and valid. After one year, any new improvements shall be subject to the land use regulations and building codes then in effect unless otherwise specified in the terms of the binding site plan approval. A statement shall be placed on the binding site plan map that notes the vesting status.

Section 69: Section 17.34.060 LMC entitled “Recording,” is amended to read as follows:

The proposed binding site plan approved by the Director shall be recorded with the [Pierce County Auditor’s Office Records and Elections Division](#) within thirty days of approval. Upon recording, the site plan shall be binding on the owner, his heirs and assigns, and shall permit the division of land within the site. Divisions shall only be permitted upon the filing of a declaration under the Horizontal Regimes Act, Chapter 64.32 or 64.34 RCW, provided the structure or structures, road and parking systems, and related facilities substantially conform to the recorded binding site plan.

Section 70: Section 17.34.070 LMC entitled “Amendments and Rescindment,” is amended to read as follows:

A. Amendment of a recorded residential condominium binding site plan shall be accomplished by following the same process as required for a new application as set forth in this chapter.

B. Upon the request of the owner or owners of a legal lot or lots subject to a recorded binding site plan, the Director shall rescind all or a portion of a binding site plan, provided that any portion of a binding site plan which is rescinded shall be considered to be one lot unless divided by an approved subdivision or short subdivision.

C. Signatures of owners of portions of a binding site plan which are not altered by an amendments or rescission are not required on the amended binding site plan or application for rescission.

Section 71: Section 17.38.010 LMC entitled “Purpose,” is amended to read as follows:

The purpose of this Chapter is to clearly delineate the criteria used by City departments to review boundary line adjustments. Boundary line adjustments provide a procedure for ~~minor or insignificant~~ changes in property lines where no new lots, units, or parcels are created. A boundary line adjustment is generally exempt from the provisions of RCW 58.17. intended to apply to minor boundary changes, to correct a controversy regarding the location of a boundary line, or to remedy adverse topographical features. A boundary line adjustment does not apply to boundary changes that would result in increased development or density otherwise regulated by applicable City land use codes and regulations, or to actions requiring replat, amendment, alteration, or vacation of a plat or short subdivision. This Chapter is also intended to insure compliance with the Survey Recording Act.

Section 72: Section 17.38.020 LMC entitled “Scope,” is amended to read as follows:

The boundary lines separating two lots of record may only be adjusted under the provisions of this Chapter. Extinguishing such lot lines or the merger of lots is ~~not also~~ considered a boundary line adjustment subject to the requirements of this Chapter. Actions which change or impair conditions or requirements imposed by previous platting decisions must be accomplished pursuant to the Subdivision Regulations. Boundary line adjustments shall not:

- A. Create any additional lot, tract, parcel, site, or division;
- B. Result in a lot, tract, parcel, site, or division which contains increased density or insufficient area or dimension to meet the minimum requirements for area and dimension as set forth in the land use and health codes and regulations. This provision shall not be construed to require correction or remedy of pre-existing non-conformities or substandard conditions;
- C. Diminish or impair drainage, water supply, existing sanitary sewage disposal, and access or easement for vehicles, utilities, and fire protection for any lot, tract, parcel, site, or division;
- D. Create or diminish any easement or deprive any parcel of access or utilities;
- E. Increase the nonconforming aspects of an existing nonconforming lot;
- F. Replat, alter, or vacate a plat or short subdivision; ~~or~~
- G. Amend the conditions of approval for previously-platted property;:-
- H. Reduce the overall area in a plat or short plat devoted to open space;
- I. Involve lots which do not have a common boundary;
- J. Circumvent the subdivision or short subdivision procedures set forth in this title. Factors which indicate that the boundary line adjustment process is being used in a manner inconsistent with statutory intent include: numerous and frequent adjustments to the existing lot boundary, a proposal to move a lot or building site to a different location, and a large number of lots being proposed for a boundary line adjustment; or
- K. Be inconsistent with applicable city code.

Section 73: Section 17.38.030 LMC entitled “Application,” is amended to read as follows:

- A. Applications for boundary line adjustments shall be made on forms provided by the City Community Development Department and shall be submitted to the Community Development Department with one original ~~Mylar~~ (may be deferred) and five paper

copies of a plan signed and stamped by a professional land surveyor, drawn to scale with accurate dimensions, clearly showing the following information:

1. The proposed lines for all affected lots, indicated by heavy solid lines;
2. The existing lot lines proposed to be changed, indicated by heavy broken lines;
3. The location ~~and dimensions~~ of all structures/improvements existing upon the affected lots and the distance between structure/improvements and the proposed lot/boundary lines;
4. The original legal description of the entire property together with new separate legal descriptions for each parcel, labeling them specifically as Parcel A, Parcel B, etc.;
5. The position of Rebar and caps set at each new property corner;
6. All parcel numbers of affected lots;
7. The location of the property to Quarter/Quarter Section;
8. The location and dimensions of any drain field, easement, or right-of-way existing within or adjacent to any affected lots;
9. The area and dimensions of each lot following the proposed adjustment;
10. The existing, and if applicable, proposed future method of sewage disposal for each affected lot.

B. Zoning Designations shall follow boundary lines of separate lots and parcels. Where a zoning map or comprehensive plan map appears to reflect a division of a ~~separate single~~ lot or parcel into two zoning districts, ~~the zoning district covering the majority of the lot or parcel shall control and shall be the zoning district for the entire parcel.~~ each portion of that lot shall be subject to all the regulations applicable to the district in which it is located; except, lands which fall partially into and partially out of the McChord Air Corridors, as designated in the comprehensive plan, shall be exempt from this interpretation.

C. Where a boundary line adjustment is sought to facilitate development of the affected property, the City shall be entitled to require compliance with the subdivision, zoning, and site development standards of the City as a condition of approval of the boundary line adjustment.

D. The total change(s) in lot size resulting from one or more boundary line adjustments shall not produce a lot smaller than the minimum developable lot size for the zoning district in which the lot is located as of the time of the completion of the boundary line adjustment(s).

~~E. Record of Survey for Boundary Line Adjustments.~~

~~1. The Mylar shall be titled on the top of the page, in large capital letters, as follows:  
RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT~~

~~2. A note shall be placed on the Mylar that reads as follows:~~

~~THIS BOUNDARY LINE ADJUSTMENT IS NOT A PLAT, REPLAT, OR SUBDIVISION.~~

~~APPROVAL OF A BOUNDARY LINE ADJUSTMENT IS NOT A GUARANTEE THAT FUTURE PERMITS WILL BE GRANTED FOR ANY STRUCTURE OR DEVELOPMENT WITHIN A LOT AFFECTED BY A BOUNDARY LINE ADJUSTMENT.~~

~~3. All requirements of Chapter 58.09 RCW and 332-130 WAC governing minimum standards for land boundary surveys shall be met and a note shall be placed on the Mylar that reads as follows:~~

~~THIS SURVEY COMPLIES WITH ALL STANDARDS AND GUIDELINES OF THE "SURVEY RECORDING ACT" CHAPTER 58.09 RCW AND 332-130 WAC.~~

~~F. Boundary line adjustment applications shall be submitted to the Community Development Department with a preliminary title report on forms approved by that Department with liability for errors not to exceed the value of the affected lots, as determined by the assessed value on the date of approval. The preliminary title report shall set forth all persons having an interest in the lots affected by the boundary line adjustment. The preliminary title report must be dated no more than 30 days prior to application and must be updated to the date of boundary line adjustment approval, without cost to the City.~~

~~G. The Mylar for recording in the Auditor's Office shall contain all survey information required for a Record of Survey under the "Survey Recording Act", Chapter 58.09 RCW and 332-130 WAC, together with the following additional signature blocks, which shall be fully executed before approval:~~

~~SURVEYOR'S CERTIFICATE~~

~~This map correctly represents a survey made by me or under my direction in conformance with the requirements of Survey Recording Act at the request of on~~

~~, 19~~

~~Certificate Number~~

~~Surveyor~~

~~COMMUNITY DEVELOPMENT DEPARTMENT~~

\_\_\_\_\_  
~~Community Development Director Date~~

~~CITY ASSESSOR-TREASURER~~

~~I hereby certify that all state and city taxes heretofore levied against the property described hereon, according to the books and records of my offices, have been fully paid.~~

\_\_\_\_\_  
~~Deputy Assessor/Treasurer Date~~

~~Reviewed for Segregation~~

\_\_\_\_\_  
~~Deputy Assessor/Treasurer Date~~

~~H. A Free Consent Statement, as shown below, shall be inked on the Mylar. This shall be signed and notarized, prior to submittal, in permanent black ink, by all parties having interest in the property. Owners' names shall also be lettered below the signatures.~~

~~The undersigned agree that the boundary line adjustment set forth herein is made with the free consent and in accordance with the desires of the owners.~~

~~(Black Ink Seal. Paper Press Seals Will Not Be Accepted)~~

~~Notary Seal~~

~~I hereby certify that the above individual(s) signed as a free and voluntary act and deed for the uses and purposes herein mentioned.~~

~~Given under my hand and seal this \_\_\_\_ day of \_\_\_\_, 20\_\_.~~

\_\_\_\_\_, NOTARY PUBLIC, in and for the State of Washington,  
residing at \_\_\_\_\_.

~~I. An application for a boundary line adjustment shall be accompanied by a non-refundable Planning review fee as set forth in separate Resolution.~~

Section 74: A new Section 17.38.035 LMC entitled "Record of Survey," is created to read as follows:

A. The Plat map shall be titled on the top of the page, in large capital letters, as follows:  
*RECORD OF SURVEY FOR BOUNDARY LINE ADJUSTMENT*

B. A note shall be placed on the plat map that reads as follows:

*THIS BOUNDARY LINE ADJUSTMENT IS NOT A PLAT, REPLAT, OR SUBDIVISION.*

*APPROVAL OF A BOUNDARY LINE ADJUSTMENT IS NOT A GUARANTEE THAT FUTURE PERMITS WILL BE GRANTED FOR ANY STRUCTURE OR DEVELOPMENT WITHIN A LOT AFFECTED BY A BOUNDARY LINE ADJUSTMENT.*

C. All requirements of Chapter 58.09 RCW and 332-130 WAC governing minimum standards for land boundary surveys shall be met and a note shall be placed on the plat map that reads as follows:

*THIS SURVEY COMPLIES WITH ALL STANDARDS AND GUIDELINES OF THE "SURVEY RECORDING ACT" CHAPTER 58.09 RCW AND 332-130 WAC.*

D. Boundary line adjustment applications shall be submitted to the Community Development Department with a preliminary title report on forms approved by that Department with liability for errors not to exceed the value of the affected lots, as determined by the assessed value on the date of approval. The preliminary title report shall set forth all persons having an interest in the lots affected by the boundary line adjustment. The preliminary title report must be dated no more than 30 days prior to application and must be updated to the date of boundary line adjustment approval, without cost to the City.

E. The plat map submitted for recording in the Auditor's Office shall contain all survey information required for a Record of Survey under the "Survey Recording Act", Chapter 58.09 RCW and 332-130 WAC, together with the following additional signature blocks, which shall be fully executed before approval:

*SURVEYOR'S CERTIFICATE*

*This map correctly represents a survey made by me or under my direction in conformance with the requirements of Survey Recording Act at the request of on \_\_\_\_\_, 20\_\_\_\_.*

Certificate Number

Surveyor

COMMUNITY DEVELOPMENT DEPARTMENT

\_\_\_\_\_  
Community Development Director Date

CITY ASSESSOR-TREASURER

I hereby certify that all state and city taxes heretofore levied against the property described hereon, according to the books and records of my offices, have been fully paid.

\_\_\_\_\_  
Deputy Assessor/Treasurer Date

Reviewed for Segregation

\_\_\_\_\_  
Deputy Assessor/Treasurer Date

F. A Free Consent Statement, as shown below, shall be inked on the Plat map. This shall be signed and notarized, prior to submittal, in permanent black ink, by all parties having interest in the property. Owners' names shall also be lettered below the signatures.

-

The undersigned agree that the boundary line adjustment set forth herein is made with the free consent and in accordance with the desires of the owners.

(Black Ink Seal. Paper Press Seals Will Not Be Accepted)

Notary Seal

I hereby certify that the above individual(s) signed as a free and voluntary act and deed for the uses and purposes herein mentioned.

*Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.*

*\_\_\_\_\_, NOTARY PUBLIC, in and for  
the State of Washington, residing at \_\_\_\_\_.*

G. An application for a boundary line adjustment shall be accompanied by a non-refundable Planning review fee as set forth in separate Resolution.

Section 75: Section 17.38.040 LMC entitled “Administrative Review,” is amended to read as follows:

~~An completed~~ application for a boundary line adjustment shall be processed as a Process I permit action. ~~approved, returned to the applicant for modifications, or denied within 30 days of its receipt by the Community Development Department.~~ The Department shall not be considered to be in receipt of a complete application unless and until such time as the applicant meets the requirements of Section 17.38.030, as determined by the Community Development Director or his/her designee.

A. The Community Development Department may forward a copy of the proposed boundary line adjustment to the ~~Engineering/Public Works Department City Engineer, to the Fire Chief Marshal, and to the Tacoma-Pierce Health Department, and or~~ to any other County Department or Division which may be affected.

B. A copy of the proposed boundary line adjustment shall be forwarded to the Assessor-Treasurer's Office. The Assessor-Treasurer's Office shall review the boundary line adjustment for accuracy of legal description, ownership, lot dimensions, and improvements on the lots.

C. The Departments shall review the proposed boundary line adjustment against the purpose and scope described in 17.38.010 and 17.38.020 respectively and submit any comments to the Community Development Department no later than 30 days ~~of date of application from the date of the agency transmittal.~~

D. If the Department of Community Development determines that an application for boundary line adjustment may impair drainage, water supply, existing sanitary sewage disposal, access or easement for vehicles, utilities, or fire protection for any lot, tract parcel, site, or decision, it shall refer the application to the appropriate department for review.

E. Following receipt of the comments of consulted departments under Subsection A. above, but in no case later than ~~30-60~~ days from receipt of completed application, the Director or his/her designee shall approve or deny the requested adjustments.

F. After approval, the applicant's surveyor must record the survey of boundary line adjustment, together with deeds of conveyance signed by parties disclosed in the title report when the adjusted boundary separates different ownerships. If the record of survey

and required deeds of conveyance have not been recorded within 30 days of boundary line approval, the boundary line adjustment shall be null and void.

G. The approval of a boundary line adjustment shall not be a guarantee that future permits will be granted for any structure or development within a lot affected by the boundary line adjustment.

H. An aggrieved person may appeal the Director's decision on a boundary line adjustments to the Hearing Examiner, in accordance with procedures described in [LMC 18A.02.740 City Codes](#). The Hearing Examiner's decision shall be final, ~~unless appealed to the City Council.~~

Section 76: Section 17.42.010 LMC entitled “Record of Proceeding,” is amended to read as follows:

**17.42.010 - Record of Proceedings**

A summary of all hearings and public meetings before the ~~Hearing~~ Examiner ~~and the Council~~ shall be preserved in a reasonable manner as required by law, which may include a tape recorded record.

The appellant shall be responsible for paying all reasonable costs for transcribing the record of relevant hearings or meetings.

Section 77: A new Section 17.42.045 LMC entitled “Affidavit of Correction,” is created to read as follows:

A. Any map page or document on file with the Pierce County Auditor/Recorder’s Office under the provisions of this title that contains an error in fact or omission may be amended by an affidavit of correction. The following types of errors may be corrected by affidavit:

1. Any bearing, distance or elevation omitted from the recorded document;
2. An error in any bearing, distance or elevation shown on the recorded document;
3. An error in the description of the real property shown on the recorded document;
4. An error in the field location of any shown easement; or
5. Any other error or omission where the error or omission is ascertainable from the data shown on the recorded document.

B. Nothing in this section shall be construed to permit changes in courses, distances or elevations for the purpose of redesigning lot or tract configurations.

C. The affidavit of correction shall contain the seal and signature of the land surveyor making the correction.

D. The affidavit of correction shall set forth in detail the corrections made and show the names of the present fee owners of the property materially affected by the correction. The notarized signatures of the owners shall be required, if deemed necessary by the department.

E. The affidavit of correction form, as provided by the community development department, shall be submitted to the department for review and approval and shall include signatures of the development engineer, the director of the department, and the Pierce County Assessor. After department approval, the affidavit shall be recorded with the Pierce County Auditor's Office Submittals shall include payment of applicable fees.

F. Should a nonsurvey-related error occur on the recorded document as a result of information required to be placed on the document by the department, the department's responsible land surveyor may prepare the affidavit providing the original land surveyor has no objections. The seal and signature of the department's responsible land surveyor making the correction shall be affixed to the affidavit. A copy of the affidavit shall be mailed by the department to the original land surveyor following recording.

Section 78. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of any other section, sentence, clause, or phrase of this ordinance.

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Section 79. Effective Date. This ordinance shall take place thirty (30) days after its publication or publication of a summary of its intent and contents.

ADOPTED by the City Council this \_\_\_ day of \_\_\_\_\_, 2014.  
CITY OF LAKEWOOD

\_\_\_\_\_  
Don Anderson, Mayor

Attest:

\_\_\_\_\_  
Alice M. Bush, MMC, City Clerk

Approved as to Form:

\_\_\_\_\_  
Heidi A. Wachter City Attorney

**CITY OF LAKEWOOD  
PLANNING ADVISORY BOARD  
RESOLUTION NO. 2014-02**

**A RESOLUTION OF THE PLANNING ADVISORY BOARD OF THE CITY OF  
LAKEWOOD RECOMMENDING APPROVAL OF VARIOUS UPDATES TO THE  
CITY'S SUBDIVISION REGULATIONS AND CHAPTER 17 OF THE LAKEWOOD  
MUNICIPAL CODE**

WHEREAS, the City of Lakewood incorporated on February 28, 1996; and

WHEREAS, pursuant to Title 36.70A RCW, on July 10, 2000, the City adopted the City of Lakewood Comprehensive Plan (Plan) pursuant to the Growth Management Act (GMA); and on August 20, 2001, the City adopted a Land Use and Development Code (Chapter 18A of the Lakewood Municipal Code); and

WHEREAS, on February 12, 1996, at or around the time of incorporation, the City of Lakewood adopted Ordinance No. 60 which enacted Title 17 of the Lakewood Municipal Code, which are the City's Interim Subdivision Regulations; and,

WHEREAS, on March 20, 2014, the City of Lakewood Community Development Department released proposed updates to the City's subdivision regulations and related provisions of the municipal code for public review and issued a Determination of Non-Significance (DNS) for this proposal on the same date; and,

WHEREAS, the Lakewood Planning Advisory Board held public hearings on the proposed subdivision regulations on May 7 and May 21, 2014, considered the public testimony received through the public hearing process, and deliberated on the proposed subdivision regulations update;

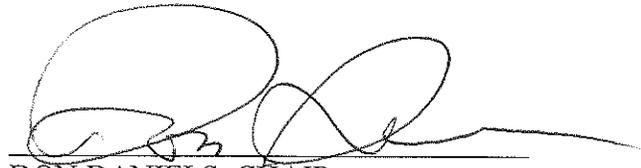
NOW, THEREFORE, BE IT RESOLVED that the Planning Advisory Board for the City of Lakewood does hereby recommend to the Lakewood City Council that Lakewood Municipal Code Title 17 should be updated and revised to read as indicated in **Exhibit A** attached hereto.

PASSED AND ADOPTED at a regular meeting of the Planning Advisory Board on May 21, 2014, by the following vote:

AYES: BOARDMEMBERS: Taylor, Brown, Daniels, Coleman-Lacadie, Zawilski

NAYS: BOARDMEMBERS: None

ABSENT: BOARDMEMBERS: Babbit, Calta



DON DANIELS, CHAIR  
PLANNING ADVISORY BOARD

ATTEST:



DAN CATRON, SECRETARY



**PLANNING ADVISORY BOARD  
REGULAR MEETING  
WEDNESDAY, May 21, 2014  
Council Chambers  
6000 Main Street SW  
Lakewood, WA 98499**

### **Call to Order**

The meeting was called to order at 6:30 p.m.

### **Roll Call**

Planning Advisory Board (PAB) Members Present: Don Daniels, Chair; Bob Zawilski, Jim Taylor, Connie Coleman-Lacadie, Jeff Brown.

PAB Member Excused: Doug Babbit, Paul Calta.

Staff Present: Dave Bugher, Community Development Director; Dan Catron, Principal Planner; Andrea Bell, Assistant Planner.

Council Liaison Present: Mary Moss

### **Approval of Minutes:**

Minutes of the meeting held on May 7, 2014, were unanimously approved M/S/C Zawilski/Taylor

**Changes to Agenda** – No changes to agenda however Mr. Bugher will be presenting additional information and handouts regarding joint meeting with City Council to be held on May 27, 2014.

### **Public Comments – None**

➔ **Subdivision Code Public Hearing** – Continuance of public hearing from May 7, 2014 regarding Subdivision Code Update LMC Title 17. Jerimiah Lefranca from Master Builders Association thanked the board for the hearing continuance and stated that the City had full support from Master Builder's regarding the update to the Subdivision code. Hearing no further comments, the board took action on the update with a first from Mr. Jeff Brown and a second from Mrs. Connie Coleman-Lacadie.

AYES: Daniels, Zawilski, Taylor, Coleman-Lacadie, Brown

NOES: None

EXCUSED: Babbit, Calta

**EXHIBIT # 3**

He further commented that if this resolution were adopted it would not deny the developer from moving forward with his project.

AYES: Brown, Babbit, Zawilski, Taylor  
NOES: Calta, Daniels  
EXCUSED: Coleman-Lacadie



Mr. Bugher informed the PAB that a vote does not stop the planning department from continuing to process the developer's application. This places the property on a docket to perform comprehensive plan and zoning amendments as part of the 2014 process. This will not come back to the PAB until the fall of 2014 and will be one of many amendments that the PAB will be reviewing as a part of the 2015 comp plan update.



**New Business:** Update of the Subdivision Code. Mr. Catron stated that this item relates to the document that was distributed to the PAB at the last meeting. New material includes background SEPA information and a clean version of the updated subdivision code. Mr. Catron stated that most of the updated material is administrative and procedural in nature, however new material is added, primarily with regard to defining legal lots of record. Mr. Catron stated that the city is often addressing "skinny mini" lots that were platted around the turn of the century. These lots are typically 25' wide by 125' long. They are primarily located in Tillicum, Lake City and South of Custer Road. Currently, when a developer comes in to develop several skinny mini lots, the city requires the lots to be formally merged. The county doesn't necessarily agree with the city's methods. Mr. Catron stated that the update tried to reflect both current city practice and state law, and tries to integrate the two. A public hearing is proposed to be held at the PAB meeting on May 7.

**Reports from Board Members and Staff:** Mr. Bugher introduced Andrea Bell, who is a new Assistant Planner in the Community Development Department. Mr. Bugher reported that interviews were conducted for hiring a consultant for the Community Visioning Process, a selection is underway. Mr. Bugher reported that he is working on communal housing regulations to find a way to address property owners who rent out their bedrooms to unrelated individuals. Mr. Bugher shared a Power Point presentation regarding Economic Development that was shown previously to the city council.

**Meeting Adjourned:** 7:58 p.m.

**Next Meeting:** The next PAB meeting is May 7, 2014

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Don Daniels, Chair  
Planning Advisory Board

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Staci Vukovich, Secretary  
Planning Advisory Board

EXHIBIT # 3



COMMISSIONERS  
L. R. Ghilarducci, Jr.  
J. S. Korsmo, Jr.  
G. J. Rediske  
GENERAL MANAGER  
Randall M. Black

April 14, 2014

Mr. Dan Catron  
Principal Planner  
Lakewood Community Development Department  
6000 Main Street SW  
Lakewood, WA 98499-5027

RE: Comments—Lakewood Subdivision Code Update - 2014

Dear Dan:

Thank you for the receipt of the City's Subdivision Code Update for 2014 and for the opportunity to offer comment. Our comments are as follows:

Chapter 17.2.035 – Definitions, para L:

Please add, "...water lines, services, and mains." to the end of paragraph.

Chapter 17.10.025 – Preliminary Plat, para A, 6.,h:

Please add, "...to include any existing easements;" to the end of this item.

Chapter 17.14.020 – Review of Preliminary Plat, para A, line 4:

Please add "easements"... "...shall transmit a copy of the plat map, easements, and application materials...."

Chapter 17.18.030 – Improvements Required, para D, line 1:

Please add, "at the developer's expense"... "...The developer shall, at the developer's expense, provide...."

Chapter 17.22.050 – Departmental Review, para C:

Not sure how you want to word this, but LWD will require obtaining a Letter of Water Availability from the District.

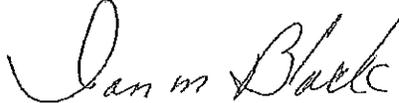
Chapter 17.22.070 – Preliminary Approval, para B, 1., line 3:

Please add "time limits" after "potable water supplies"... "...potable water supplies time limits, sanitary...." Since Letters of Water Availability are issued in accordance with water available at the time they are issued, there is a prescribed amount of time for which each letter issued is viable.

Mr. Dan Catron  
April 14, 2014  
Page 2

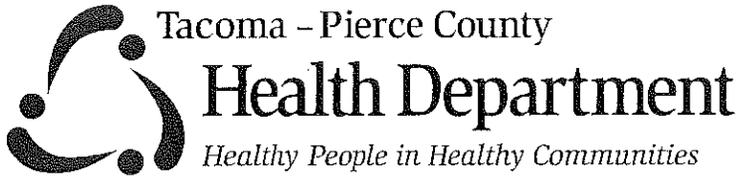
Thank you again for the opportunity to comment and for your thoughtful consideration and possible implementation of these requests. If you have any questions of me, or if I can further clarify or explain any comment above, please call me at 253/588-4423 or directly at 907/723-1802.

Cordially,

A handwritten signature in cursive script that reads "Ian M. Black". The signature is written in dark ink and is positioned above the printed name and title.

Ian M. Black  
Superintendent

IMB:ckb



Governed by a local Board of Health

April 22, 2014

Dan Catron, Principal Planner  
City of Lakewood  
6000 Main ST SW  
Lakewood, WA 98499

**RECEIVED**  
**APR 24 2014**  
**COMMUNITY DEVELOPMENT**

**RE: 2014 Lakewood Sub Code Update; SR0174695  
City of Lakewood**

Dear Dan Catron, Principal Planner:

The Tacoma-Pierce County Health Department's Environmental Health Program received the above mentioned checklist on March 31, 2014 and has reviewed your proposal.

There are no objections to the proposal as presented.

Thank you for the opportunity to respond. If you have further questions, please contact me at (253) 798-2851 or by e-mail at bharp@tpchd.org.

Sincerely,

A handwritten signature in black ink that reads "Brad D. Harp".

Brad D. Harp  
Environmental Health Division

BDH:sfr

**EXHIBIT # 5**



## CITY OF LAKEWOOD NOTICE OF PUBLIC HEARING

Don Anderson  
Mayor

**Project Name: 2014 Subdivision Code Update**

Jason Whalen  
Deputy Mayor

**Description of Proposal:** City initiated amendments to the City's Subdivision Regulations (Title 17 of the Lakewood Municipal Code). Substantive amendments include (but are not limited to):

Mary Moss  
Councilmember

- Clarification of procedures for the review and approval of short plats, preliminary plats, and binding site plans;
- Provide a more specific definition of "legal lot of record" and provide procedures to address whether a lot was legally created, including the issuance of Certificates of Land Division Compliance;
- Clarification of time periods and limitations for review of subdivision applications;
- Clarify the appeal processes for subdivision applications;
- Provide specific provisions for the review and approval of final plats;
- Clarify provisions for boundary line adjustments and lot mergers;

Michael D. Brandstetter  
Councilmember

John Simpson  
Councilmember

The proposed amendments will apply to all lands within the Lakewood city limits. The Planning Advisory Board may choose to modify the amendments recommended by staff.

Marie Barth  
Councilmember

Paul Bocchi  
Councilmember

**A public hearing before the Planning Advisory Board to take public testimony and consider the proposed amendments is scheduled for Wednesday, May 7, 2014, beginning at 6:30 P.M.** The hearing will be held in the City Council Chambers, 6000 Main Street SW, Lakewood, WA. The decision of the Planning Advisory Board will be forwarded to the Lakewood City Council as a recommendation for action.

John J. Caulfield  
City Manager

A copy of the proposed amendments and the staff report to the Planning Advisory Board may be obtained at the Lakewood Community Development Department.

**Contact:** Lakewood Community Development Department  
Dan Catron, Principal Planner  
6000 Main Street SW  
Lakewood, WA 98499-5027

**Telephone:** (253) 512-2261

To be published once in The News Tribune on April 17, 2014

EXHIBIT # 6

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CITY OF LAKEWOOD NOTICE OF PUBLIC HEARING Project Name

**CITY OF LAKEWOOD  
NOTICE OF PUBLIC HEARING**  
**Project Name: 2014 Subdivision Code Update**  
**Description of Proposal:** City initiated amendments to the City's Subdivision Regulations (Title 17 of the Lakewood Municipal Code). Substantive amendments include (but are not limited to):  
• Clarification of procedures for the review and approval of short plats, preliminary plats, and binding site plans;  
• Provide a more specific definition of "legal lot of record" and provide procedures to address whether a lot was legally created, including the issuance of Certificates of Land Division Compliance;  
• Clarification of time periods and limitations for review of subdivision applications;  
• Clarify the appeal processes for subdivision applications;  
• Provide specific provisions for the review and approval of final plats;  
• Clarify provisions for boundary line adjustments and lot mergers.

The proposed amendments will apply to all lands within the Lakewood city limits. The Planning Advisory Board may choose to modify the amendments recommended by staff. A public hearing before the Planning Advisory Board to take public testimony and consider the proposed amendments is scheduled for Wednesday, May 7, 2014, beginning at 6:30 P.M. The hearing will be held in the City Council Chambers, 6000 Main Street SW, Lakewood, WA. The decision of the Planning Advisory Board will be forwarded to the Lakewood City Council as a recommendation for action.

A copy of the proposed amendments and the staff report to the Planning Advisory Board may be obtained at the Lakewood Community Development Department.

**Contact:** Lakewood Community Development Department  
Dan Catron, Principal Planner  
6000 Main Street SW  
Lakewood, WA 98499-5027  
Telephone: (253) 512-2261



**CITY OF LAKEWOOD  
NOTICE OF ISSUANCE OF DETERMINATION OF NON-SIGNIFICANCE**

Don Anderson  
Mayor

**Project Name:** 2014 Title 17- Subdivision Code Update

Jason Whalen  
Deputy Mayor

**Description of Proposal:** City initiated amendments to the City's Subdivision Regulations (Title 17 of the Lakewood Municipal Code). The proposed amendments are intended to clarify application requirements, procedures, and processing times with regard to the City's review of proposals to subdivide land. The proposed amendments will affect all lands within the Lakewood city limits.

Mary Moss  
Councilmember

Michael D. Brandstetter  
Councilmember

**Proponent:** City of Lakewood, Washington  
Community Development Department

John Simpson  
Councilmember

**Lead Agency:** City of Lakewood, Washington

Marie Barth  
Councilmember

The Lead Agency for this proposal has determined that all potential significant adverse impacts on the environment will be addressed through mitigation measures including further project specific environmental reviews. An environmental impact statement is not required under RCW 43.21C.030(2)(c). Copies of the proposed amendments and the threshold determination are available to the public on request.

Paul Bocchi  
Councilmember

This DNS is issued under 197-11-340 (2)(a)(v); the Lead Agency will not act on this proposal for 14-days beginning on March 20, 2014, and ending 14 days later on April 4, 2014. Comments on environmental effects, if any, must be submitted within this time period. Written comments are encouraged.

John J. Caulfield  
City Manager

**Responsible Official:** David Bugher  
Community Development Director, City of Lakewood

**Address:** 6000 Main Street SW  
Lakewood, WA 98499-5027

**Telephone:** (253) 512-2261

The final threshold determination for Process V Legislative Actions is considered final and is not subject to administrative appeal. The DNS becomes final 14 days after issuance unless it is withdrawn by the Responsible Official.

To be published once in the Tacoma News Tribune on March 20, 2014

**EXHIBIT # 7**

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**CITY OF LAKEWOOD  
NOTICE OF ISSUANCE OF DETERMINATION OF  
NON-SIGNIFICANCE**

**Project Name:** 2014 Title 17- Subdivision Code Update

**Description of Proposal:** City initiated amendments to the City's Subdivision Regulations (Title 17 of the Lakewood Municipal Code). The proposed amendments are intended to clarify application requirements, procedures, and processing times with regard to the City's review of proposals to subdivide land. The proposed amendments will affect all lands within the Lakewood city limits.

**Proponent:** City of Lakewood, Washington  
Community Development Department

**Lead Agency:** City of Lakewood, Washington  
The Lead Agency for this proposal has determined that all potential significant adverse impacts on the environment will be addressed through mitigation measures including further project specific environmental reviews. An environmental impact statement is not required under RCW 43.21C.030(2)(c). Copies of the proposed amendments and the threshold determination are available to the public on request.

This DNS is issued under 197-11-940 (2)(a)(v); the Lead Agency will not act on this proposal for 14-days beginning on March 20, 2014, and ending 14 days later on April 4, 2014. Comments on environmental effects, if any, must be submitted within this time period. Written comments are encouraged.

**Responsible Official:** David Bugher  
Community Development Director,  
City of Lakewood

**Address:** 6000 Main Street SW  
Lakewood, WA 98499-5027

**Telephone:** (253) 512-2261  
The final threshold determination for Process V Legislative Actions is considered final and is not subject to administrative appeal. The DNS becomes final 14 days after issuance unless it is withdrawn by the Responsible Official.  
**To be published once in the Tacoma News Tribune on March 20, 2014**

APEX Engineering  
Attn: Tres Kirkebo  
2601 So. 35<sup>th</sup> Street, Suite 200  
Tacoma, WA 98409

AHBL  
Attn: Sean Comfort, P.E.  
2215 North 30<sup>th</sup> Street, Ste #300  
Tacoma, WA 98403-3350

Prizm Surveying  
Attn; Dave Berg  
P.O. Box 110700  
Tacoma, WA 98411

Baseline Engineering  
Attn: Terry Ferguson  
1910 64<sup>th</sup> Avenue West  
Tacoma, WA 98466

Barghausen Engineers  
Attn: Dan Balmelli, P.E.  
18215 72<sup>nd</sup> Avenue So.  
Kent, WA 98032

Contour Engineering  
Attn; Brett Allen P.E.  
3309 56<sup>th</sup> Street NW, Ste #106  
Gig Harbor, WA 98335

Sitts and Hill Engineers  
4815 Center Street  
Tacoma WA 98409

Peter Jonas

Ken Van Cleave  
112 Candlewyck Drive  
Lakewood, WA 98467

**CITY OF LAKEWOOD**  
DEPARTMENT OF COMMUNITY DEVELOPMENT

**ENVIRONMENTAL CHECKLIST APPLICATION FORM**

**A. BACKGROUND INFORMATION**

Name of Project: 2014 Lakewood Subdivision Code Amendments  
Name of Applicant: City of Lakewood  
Contact Person: Dan Catron, Principal Planner  
(253) 983-7730  
Mailing Address: 6000 Main Street SW  
Lakewood, WA 98499

**DESCRIPTION OF PROPOSED AMENDMENTS:**

This group of proposed amendments is intended to clarify application requirements, procedures, and processing times with regard to the City's review of proposals to subdivide land. Proposed amendments include:

- Clarification of procedures for the review and approval of short plats, preliminary plats, and binding site plans;
- Provide a better definition of "legal lot of record" and provide procedures to address whether a lot was legally created, including the issuance of Certificates of Land Division Compliance;
- Clarification of time periods and limitations for review of subdivision applications;
- Clarify the appeal processes for subdivision applications;
- Provide specific provisions for the review and approval of final plats;
- Clarify provisions for boundary line adjustments and lot mergers;

**D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS**

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emission to air; production, storage, or release of toxic or hazardous substances; or production of noise?

*The proposed changes to the subdivision code are generally procedural and administrative in nature, and will not affect these aspects of the environment. Project specific impacts will continue to be addressed through case-by-case environmental and code review. Projects are required to submit stormwater discharge and pollution prevention plans to the Office of the City Engineer for review and approval prior to the issuance of site development permits.*

2. Proposed measures to avoid or reduce such increases are:

*Pollution impacts will be avoided and reduced by implementation of existing regulations. Impacts are also considered in the context of site specific zoning permits, SEPA review and through consultation with other responsible agencies.*

3. How would the proposal be likely to affect plants, animals, fish, or marine life?

*The proposed code changes will not affect the level of protection for biotic resources. Important fish and wildlife habitat areas have been identified through the City's Critical Areas Ordinance and often zoned for open space uses as appropriate. Specific projects in critical areas will be required to follow critical areas regulations, and may be required to conduct site specific SEPA review and evaluate impacts on biotic resources. The proposed amendments will not affect this aspect of the Code.*

4. Proposed measures to protect or conserve plants, animals, fish, or marine life?

*Specific measures to protect and conserve biotic resources include Federal and state endangered species regulations, site specific SEPA reviews, the Critical Areas and Resource Lands Ordinance, the Shoreline Management Regulations, the Riparian Overlay zone, and the tree retention provisions of the code. These aspects of the Code are not affected by the proposed amendments.*

5. How would the proposal be likely to deplete energy or natural resources?

*The proposed changes to the subdivision code are primarily administrative in nature and are not expected to result in any increase in demand for energy or natural resources. The proposed distribution of land uses, as dictated by the Comprehensive Plan, is intended to increase the jobs/housing balance for different areas of the City, and increase the effectiveness of public transportation. The proposed amendments will not affect this aspect of the Code.*

6. Proposed measures to protect or conserve energy and natural resources are:

*Adherence to Uniform Building Code requirements;  
Implementation of City policies promoting compact, energy efficient development*

7. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness,

wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

*The proposed code changes do not affect environmentally sensitive areas. Existing protections for such sensitive areas will remain in place. No significant adverse impacts are anticipated.*

8. Proposed measures to protect such resources or to avoid or reduce impacts are:

*Reliance on existing or updated laws, regulations and procedures. The proposed amendments will not affect this aspect of the Code.*

9. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

*The proposed changes to the subdivision code are primarily administrative in nature and are not expected to result in any substantive changes to land or shoreline use. The proposed distribution of land uses and land use policies are set forth in the Comprehensive Plan, and are not expected to be affected by the proposed amendments. Development on shorelines is regulated by the WA State Shoreline Management Act and the Pierce County Shoreline Management Regulations. The proposed amendments will not affect these regulations.*

10. Proposed measures to avoid or reduce shoreline and land use impacts are:

*Not applicable.*

11. How would the proposal be likely to increase demands on transportation or public services and utilities?

*In general, the Comprehensive Plan and the Land Use and Development Code have been developed to improve transportation and public services demands. The proposed changes to the subdivision code will not have any effect on transportation or public services and utilities.*

12. Proposed measures to reduce or respond to such demand(s) are:

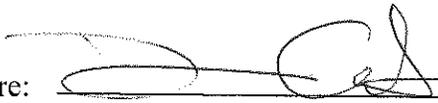
*Not applicable.*

13. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

*The proposed amendments are intended to be consistent with the State Environmental Policy Act (SEPA) and the environmental protection policies of the Growth Management Act. No conflicts are anticipated.*

**SIGNATURE**

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:  \_\_\_\_\_  
Dan Catron, AICP  
Principal Planner

Date: March 18, 2014

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**CITY OF LAKEWOOD  
DETERMINATION OF NON-SIGNIFICANCE**

**PROJECT NAME:** Amendments to Title 17 of the Lakewood Municipal Code Regarding Subdivisions – April 2014

**PROJECT DESCRIPTION:** Various amendments and updates to the City’s subdivision regulations.

**PROJECT PROPONENT:** City of Lakewood  
Community Development Department  
6000 Main Street SW  
Lakewood, WA 98499

**PROJECT DESCRIPTION:**

The Lakewood Community Development Department is proposing a variety of amendments and updates to the City’s Subdivision Regulations (LMC Title 17). The proposed amendments are intended to update and clarify the subdivision code.

**SUMMARY:**

No significant environmental impacts are expected to result from the adoption of the proposed code amendments. Most of the changes are administrative in nature and will not have substantive effects on the physical environment. The distribution of land uses and fundamental land use policies are set forth in the Lakewood Comprehensive Plan, and are not affected by the proposed amendments.

**FINDINGS OF FACT:**

1. The proposed amendments would update and amend Lakewood Municipal Code Title 17 -Subdivisions.
2. The proposed amendments are primarily administrative in nature and will not have any substantive impact on the physical environment.
3. The proposed amendments focus primarily on clarification of subdivision processing procedures.

**CONCLUSIONS OF RESPONSIBLE OFFICIAL:**

The Responsible Official concludes that the proposed amendments to the Lakewood Municipal Code are primarily administrative in nature, and help implement the provisions of the Lakewood

**EXHIBIT # 9**

Comprehensive Plan. The proposed amendments will not have any adverse effects on the environment. Pursuant to WAC 197-11-350 (3), a DNS may be issued. This conclusion is based on staff review of the proposed code and the environmental checklist. The environmental effects of specific projects affected by the proposed regulations will be analyzed on a case-by-case basis, as required by the State Environmental Policy Act.

Agency: City of Lakewood  
Community Development Department  
6000 Gravelly Lake Drive SW  
Lakewood, WA 98499-5027

Date of Issue: March 20, 2014

Comment Deadline: April 4, 2014

Date of Final Determination: \_\_\_\_\_

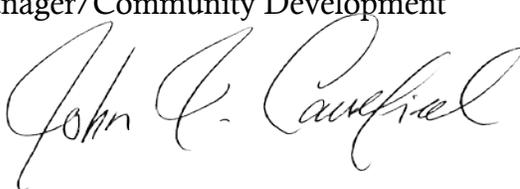
  
David Bugher, Responsible Official

NOTE: Pursuant to Lakewood Municipal Code Section 14.02.200, decisions of the Responsible Official regarding Process V Legislative Actions are final and are not subject to administrative appeal.



**TO:** Mayor and City Councilmembers

**FROM:** David Bugher, Assistant City Manager/Community Development Director

**THROUGH:** John J. Caulfield, City Manager 

**DATE:** July 28, 2014

**SUBJECT:** City Initiated Amendments to the Lakewood Municipal Code Adding Communal Housing Regulations & Modifying the Definition of “Family”

**RECOMMENDATION:** Adopt the attached draft ordinance amending Title 18A of the Lakewood Municipal Code adding communal housing regulations and modifying the definition of “family.”

**PLANNING ADVISORY BOARD (PAB) RECOMMENDATION:** After conducting a duly noticed public hearing on May 21, 2014, the Planning Advisory Board on June 18, 2014, unanimously recommended approval of the proposed amendments.

**BACKGROUND:** This proposal originated at the request of City Councilmember Bocchi who in December 2013 suggested that the City examine the impact of the conversion of single family residences into boarding houses. This issue has been a concern in the City of Bellevue, where homeowners were renting out rooms to unrelated individuals. Please see the attached *Seattle Times* newspaper story. The boarding house phenomenon comes up from time-to-time in Lakewood. Commonly, it is the illegal conversion of a residence into group quarters. The conversion often violates international code construction standards and many of the buildings are determined unsafe. The increased number of tenants also causes other problems with property maintenance, an excessive number of vehicles, and lack of adequate garbage pick-up.

City staff reviewed ordinances from Bellevue and Auburn and crafted draft regulations for Lakewood. The regulations include:

- Adding the term communal residences to the zoning regulations, Section 18A.20.900 (Accessory Use Category);
- Adding communal residence use specific standards;
- Adding new definitions, “cohabitants,” “communal residences,” “family home, foster,” “occupant,” “owner,” “owner occupied unit,” “property manager,” and “the renting of rooms;” and

- Revised the definition of “family.”

## **DESCRIPTION OF PROPOSED AMENDMENTS:**

Section 18A.20.900 – Accessory Use Category: The Accessory use category includes those uses which are incidental, and secondary to, other listed uses except as may be specifically limited by use levels. Accessory uses include accessory dwelling units, residential storage facilities, docks, “pea patch” or community gardens, home occupations, decks and patios, etc. Here, staff has added the term communal residences.

Section 18A.70.321 – Purpose Communal Residences: This is a new section that explains why the City is proposing new regulations.

Section 18A.70.322 - Applicability - Communal Residence(s): This is a new section that establishes the permitting requirements for communal housing:

- A communal residence housing two (2) or less unrelated individuals requires zoning certification<sup>1</sup>;
- A communal residence housing three (3) or four (4) unrelated individuals requires issuance of an administrative use permit;
- A communal residence housing more than four (4) unrelated individuals requires issuance of a conditional use permit.

Section 18A.70.323- Standards - Communal Residence(s): This is a new section that establishes new development standards for parking, garbage service, the issuance of a business license, and property maintenance code requirements. There is also an amortization schedule for existing communal residences, and special development standards for communal residences housing four or more individuals including the provision of a designated property manager that is available twenty-hour (24) hours a day, seven (7) days a week.

Chapter 18A.90 – Definitions: This chapter includes new definitions for “cohabitants,” “communal residences,” “family home, foster,” “occupant,” “owner,” “owner occupied unit,”<sup>2</sup> “property manager,” and “the renting of rooms.” Also, the definition of “family” is revised.

**ANALYSIS:** The proposed regulations are patterned after other cities. They have been developed so as not to impact adult family homes which are preempted from local control by

---

<sup>1</sup> Zoning certification refers to the process where the Community Development Department provides written approval that a proposed use or activity complies with the City’s land use & development regulations. Zoning certification is a Process I Administrative Action & is appealable to the Hearing Examiner.

<sup>2</sup> In the process of codifying the proposed ordinance, it was discovered that Chapter 18A.90 already had definitions for owner and owner occupied unit. After reviewing the current code with the proposed changes, staff chose to keep the existing definitions. The proposed ordinance, therefore, proposes no changes to these terms.

Washington State. The term communal residence(s) has been narrowly defined and does not contradict the City's group home definitions. The proposal does not limit the provision for affordable housing.

The proposed regulations are consistent with the City's Comprehensive Plan Housing Goals and related policies:

Goal: LU-2 (protecting the character of existing single family neighborhoods);

Policy: LU-2.1 (preserving a range of housing options);

Goal: LU-4 (attaining a wide range of residential patterns...and housing types);

Policy: LU-4.1 (allows for a sufficient diversity of land use designations and a full range of dwelling types)

Goal: LU-7 (encouraging affordable housing);

Policy: LU-7.2 (encourages a variety of affordable housing types)

**PUBLIC NOTICE:** This text amendment is a Process V application type and was advertised in accordance with the provisions Section 18A.2.565. Public notice of the May 19, 2014 Public Hearing was posted on the City's website. Public notice was published in *The News Tribune* on April 24, 2014. On January 24, 2014, notice of the proposed amendments was provided to the Washington Department of Commerce pursuant to RCW 36.70A.106.

The Master Builders Association (MBA) and the Tacoma-Pierce County Association of Realtors were contacted.

The MBA did not submit comments. A realtor's association member provided input on the proposed code changes. Please see the attached e-mail from Catherine Rudolph.

**SEPA REVIEW STATUS:** A Determination of Significance has been adopted. Documentation of the SEPA process includes the environmental checklist which is on file in the Community Development Department.

**CONCLUSION:** Based on the forgoing information, the Community Development Department recommends that the Planning Advisory Board support the proposed amendments, and approve the attached draft resolution, recommending that the City Council adopt the proposed amendments.

**EXHIBITS:**

1. Draft ordinance
2. PAB minutes, May 21, 2014 & June 18, 2014
3. PAB resolution
4. Newspaper article from the Seattle Times
5. E-mail from the Tacoma-Pierce County Association of Realtors

ORDINANCE NO. \_\_\_\_

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Sections 18A.20.900, 18A.90.200 and 18A.90.200A of the Lakewood Municipal Code (LMC); and creating Sections 18A.70.320, 18A.70.321, 18A.70.322, 18A.70.323 LMC; relating to communal housing.

WHEREAS, the Planning Advisory Board promulgated PAB Resolution 2014-1 in favor of communal housing regulations, and in doing so, made the following determinations, which the City Council adopts:

- there exists the potential that existing single family residences could be converted into boarding houses; and
- such conversions, if not properly regulated, can: 1) increase density above the limitations set forward in the underlying zoning district; 2) violate construction code standards; 3) result in a general decline in property maintenance; 4) increase traffic volumes, and speeding in general; and
- draft regulations were promulgated and referred to as the communal housing regulations which includes a revised definition for the term “family;” and
- these draft regulations were submitted to the Planning Advisory Board on January 15, 2014, and May 21, 2014; and
- the draft regulations were reviewed for compliance with the State Environmental Policy Act, and such regulations were deemed not have a significant impact on the environment; and
- the Lakewood Planning Advisory Board conducted a Public Hearing on May 21, 2014; considered public testimony through the Public Hearing process; and deliberated on the proposed regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

Section 1: Section 18A.20.900 LMC entitled “Accessory Use Category - Land Use Types and Levels,” is amended to read as follows:

The Accessory use category includes those uses which are customarily and routinely found in conjunction with, and which are clearly incidental and secondary to, other listed uses, except as may be specifically limited by use levels otherwise listed herein.

A. Residential Accessory. Uses accessory to a primary permitted residential use or in conjunction with a residential use requiring a discretionary permit, subject to LMC 18A.50.140, Residential Accessory Buildings, and all applicable construction permits.

1. Accessory dwelling unit, subject to the provisions of LMC 18A.70.310.

2. Communal residence(s), subject to the provisions of LMC 18.70.320.

23. Private docks and mooring facilities as regulated by applicable shoreline management regulations.

34. Storage.

a. Attached carports or garages for the sole use of occupants of premises and their guests, for storage of personal household goods and motor, recreational, and sporting vehicles.

b. Detached carports or garages are allowed in conjunction with an approved access and driveway.

c. In addition to attached carports or garages, detached carports, garages, and other accessory buildings and structures such as hobbyist greenhouses and storage buildings for personal household goods and yard maintenance equipment, but excluding accessory dwelling units, are allowed.

45. Outdoor storage of two (2) recreational/sporting/utility vehicles, subject to LMC 18A.50.145, Outdoor Storage of Recreational, Utility and Sporting Vehicles Accessory to Residential Uses.

56. Home occupations and limited home occupations, subject to the provisions of LMC 18A.70.200.

67. Minor maintenance of a vehicle owned by a resident or a relative of a resident of the site on which the activity is performed, where the activity is not performed for pay or the exchange of goods or services, and subject to the provision of LMC 18A.50.155, Vehicle Service and Repair Accessory to Residential Uses.

78. Hobbyist crop or flower gardens which are non-commercial and serve one (1) or more neighborhood homes on an informal, cooperative basis, as distinguished from Outdoor Recreation uses.

89. Civic use types, limited to “pea patch” or community gardens, “tot lots,” private parks and open space set-asides. May include private, on-site composting facility with less than ten (10) cubic yards’ capacity.

910. On-site underground fuel storage tanks to serve a residential use.

1011. Antennae and satellite dishes for private telecommunication services, subject to specific standards, including siting criteria, set forth in LMC 18A.70.600, Wireless Telecommunications Facilities.

112. Decks and patios.

~~1213.~~ Non-commercial recreational facilities and areas, indoor and outdoor, including swimming pools and tennis courts, for exclusive use by residents and guests.

~~1314.~~ On-site soil reclamation in accordance with state regulations.

~~1415.~~ Retaining walls, freestanding walls, and fences.

~~1516.~~ Yard sales.

~~1617.~~ Eating and Drinking Establishment Level 1, limited to ice cream trucks but excluding their storage.

~~1718.~~ Continuation of equestrian uses, which are accessory to a single-family dwelling, already legally existing within the zone at the time of adoption of this title. Maintenance, repair and replacement of existing equestrian structures shall be permitted.

Section 2: A new Title-only Section 18A.20.320 LMC entitled “Communal Residence(s),” is created:

Section 3: A new Section 18A.20.321 LMC entitled “Purpose - Communal Residence(s),” is created to read as follows:

The purpose of the communal residence regulations is to address issues related to rental housing primarily located in single family residential zones. If not properly regulated, this rental practice can increase density above the limitations set forward in the underlying zoning district; result in a general decline in property maintenance; and increase traffic volumes, and traffic and speeding in general.

Section 4: A new Section 18A.20.322 LMC entitled “Applicability - Communal Residence(s),” is created to read as follows:

A. Communal residences are allowed in Single-Family Residential zoning districts upon the issuance of zoning certification, an administrative use permit, or a conditional use permit, and subject to the requirements of this chapter:

1. A Communal Residence housing two (2) or less unrelated individuals is a Process I application type (zoning certification) and subject to all the procedural requirements applicable to this application type.

2. A Communal Residence housing 3 or 4 unrelated individuals is a Process II application type (administrative use permit) and subject to all the procedural requirements applicable to this application type.

3. A Communal Residence housing more than four (4) unrelated individuals is a Process III application type (conditional use permit) and subject to all the procedural requirements applicable to this application type.

4. Applications for a communal residence shall be on the form prescribed by the Community Development Department and shall include all of the information and materials required by the application form.

5. Applications for communal residences shall be filed with the Community Development Department.

Section 5: A new Section 18A.20.322 LMC entitled “Standards - Communal Residence(s)” is created to read as follows:

A. Parking Requirements.

1. At a minimum there must be one (1) off-street parking stall per occupant. A owner may reduce the off-street parking requirement if an affidavit is signed that a occupant does not own a vehicle.

B. Solid Waste Management Regulations.

1. All occupied units shall have minimum garbage service as prescribed by the City pursuant to Title 13 LMC.

2. The owner is responsible to provide each occupant with the solid waste connection schedule and that schedule is to be posted within the unit as approved by the City.

C. General Business License Required. A communal residence is deemed a business activity and is subject to the requirements of Chapter 5.02 LMC.

D. International Property Maintenance Code. Pursuant to Title 15A, LMC International Property Maintenance Code occupancy requirements are applicable to a communal residence regardless of the number of individuals living in the residence.

E. Amortization Schedule. Existing communal residences have until December 31, 2015 to become compliant with the regulations outlined in this Title and Title 5 as it pertains to communal residences.

F. Additional Standards. The following additional standards are required to be met for any communal residence over four (4) unrelated individuals excluding Types 1, 2, 3, and 4 Group Homes as defined in LMC 18.20.300, Use Types and Levels; hotels and motels as defined in LMC 18A.90.200; and excluding state-licensed foster homes, in addition to the criteria for a conditional use permit under LMC 18A.10.230.

1. Adequate living space based on the International Property Maintenance Code standards will be taken into account when a request for more than four (4) unrelated individuals is requested.

2. A designated property manager that is available twenty-hour (24) hours a day, seven (7) days a week is required.

3. The request for more than four (4) unrelated individuals will not adversely impact the surrounding community.

4. The applicant must adhere to the provisions of the City's noise control regulations found in LMC 8.36.010.

Section 6: Section 18A.90.200 LMC entitled "Definitions" is amended to read as follows:

ABANDON OR ABANDONMENT OF WIRELESS TELECOMMUNICATIONS FACILITIES (WTF). Means:

- a. to cease operation for a period of sixty (60) or more consecutive calendar days;
- b. to reduce the effective radiated power of an antenna by seventy five (75) percent for sixty (60) or more consecutive calendar days unless new technology or the construction of additional cells in the same locality allows reduction of effective radiated power by more than seventy five (75), so long as the operator still serves essentially the same customer base;
- c. to relocate an antenna at a point less than eighty (80) percent of the height of an antenna support structure; or,
- d. to reduce the number of transmissions from an antenna by seventy five (75) percent for sixty (60) or more consecutive calendar days; Provided that non-operation or reduced operation for a period of sixty (60) or more consecutive calendar days to facilitate maintenance, re-design or other changes about which the City was notified in advance shall not constitute abandonment.

ABSENTEE OWNER. Any real property owner(s) who customarily resides some place other than the property (whether an estate or business) in question.

ABUTTING. Lots sharing common property lines.

ACCESS. The way or means by which pedestrians and vehicles enter and leave property.

ACCESSORY BUILDING - A detached subordinate building, the use of which is customarily incidental to that of the principal building or to the principal use of the land and which is located on the same tract with the principal building or use.

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

**ACCESSORY LIVING QUARTERS.** A single residential dwelling unit that is an attached or detached part of a commercial or manufacturing building, and which is incidental to the commercial or manufacturing use.

**ACCESSORY STRUCTURE.** A structure either attached or detached from a principal building and located on the same lot and which is customarily incidental and subordinate to the principal building or use.

**ACCESSORY USE.** A use of land or of a building customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

**ACTIVITIES OF DAILY LIVING (ADL) ASSISTANCE.** Provision of personal care services in a state-licensed boarding home for assisted living consisting of at least minimal assistance with the following:

a. Bathing. Reminding or cuing to wash and dry all areas of the body as needed, stand-by assistance getting into and out of the tub or shower, and physical assistance in steadying the resident during the activity; and

b. Dressing. Reminding or cuing to put on, take off, or lay out clothing, including prostheses when the assistance of a licensed nurse is not required; stand-by assistance during the activity; and physical assistance limited to steadying the resident during the activity; and

c. Eating. Reminding or cuing to eat and drink; and physical assistance limited to cutting food up, preparing food and beverages, and bringing food and fluids to the resident; and

d. Personal hygiene. Reminding and cuing to comb hair, perform oral care and brush teeth, shave, apply makeup, and wash and dry face, hands and other areas of the body; stand-by assistance during the activity; and physical assistance limited to steadying the resident during the activity; and

e. Transferring. Reminders or cuing to move between surfaces, for example to and from the bed, chair and standing; stand-by assistance during the activity; and physical assistance limited to steadying the resident during self-transfers; and

f. Toileting. Reminders and cuing to toilet, including resident self-care of ostomy or catheter, to wipe and cleanse, and to change and adjust clothing, protective garments and pads, stand-by assistance during the activity; and physical assistance limited to steadying the resident during the activity; and

g. Mobility. Reminding or cuing to move between locations on the boarding home premises; stand-by assistance during the activity; and physical assistance limited to steadying the resident during the activity.

**ADEQUATE PUBLIC FACILITIES.** Adequate public facilities means facilities which have the capacity to serve development without decreasing levels of service below locally established minimums.

**ADJACENT.** Lots located across a right-of-way, railroad or street, except limited access roads.

**ADMINISTRATIVE USE PERMIT.** A written decision granted by the Community Development Director to authorize the development or operation of a proposed land use activity subject to special degrees of control.

**AGRICULTURAL USE.** Land primarily devoted to the commercial production of dairy, apiary, furbearing, vegetable, or animal products or of grain, hay, straw, turf, seed, fin fish, or livestock, and that has long-term commercial significance for agricultural production.

**AIRPORT.** Any land area, runway or other facility designed, used or intended to be used either publicly or by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces.

**ALLEY.** A public or private way not more than 30 feet wide at the rear or side of property affording only secondary means of vehicular or pedestrian access to abutting property.

**ALTERATION, STRUCTURAL.** Any change or repair which would tend to prolong the life of the supporting members of a building or structure, such as alteration or bearing walls, foundation, columns, beams, or girders. In addition, any change in the external dimensions of the building shall be considered a structural alteration.

**AMATEUR RADIO STATION OPERATORS OR RECEIVE-ONLY ANTENNAS.** Any tower or antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.

**AMENDMENT.** Amendment means a change in the wording, context, or substance of this code or the comprehensive plan; a change in the zoning map or comprehensive plan map; a change to the official controls of City code; or any change to a condition of approval or modification of a permit or plans reviewed or approved by the Community Development Director or Hearing Examiner.

**ANCHOR.** The device to which tie-downs are secured or fastened having a holding power of not less than 4,800 pounds. They include, but are not necessarily limited to, screw auger, expanding or concrete deadmen type anchors, and are to be constructed as to accommodate "over the top" and "frame" type tie-downs, used singly or in conjunction.

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

**ANTENNA SUPPORT STRUCTURE.** Any pole, telescoping mast, tower, tripod, or other structure which supports a device used in the transmitting or receiving of radio frequency signals.

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

**ANTIQUÉ DEALER.** Any person engaged, in whole or in part, in the business of selling antiques.

**ANTIQUES.** Works of art, pieces of furniture, decorative and household objects, and other such collectibles possessing value or commercial appeal owing to their being made during an earlier period.

**APARTMENT.** A dwelling unit in a multifamily building.

**APPEAL.** A request for review of the Community Development Director's decision concerning matters addressed by the Ordinance to the Planning Advisory Board or a review of the Hearing Examiner's decision to the City Council.

**APPLICANT FOR WIRELESS TELECOMMUNICATIONS FACILITIES (WTF).** Any provider or any person, partnership, or company who files an application for any permit necessary to install, maintain, or remove a WTF within the city.

**APPLICANT.** Any person who makes an application to the City of Lakewood for a development permit.

**ARCADE.** A linear pedestrian walkway that abuts and runs along the facade of a building. It is covered, but not enclosed, and open at all times to public use. Typically, it has a line of columns along its open side. There may be habitable space above the arcade.

**ARCHAEOLOGICAL RESOURCES.** Districts, sites, building, structures, and artifacts with material evidence of prehistoric human life and culture.

**ARCHITECTURAL BARRIERS.** Constructed structures such as walls, signs, rockeries, drainage swales or similar constructed features that impact the required landscape areas.

**ARCHITECTURAL CHARACTER.** The architectural character of a building is that quality or qualities that make it distinctive and that are typically associated with its form and the arrangement of its architectural elements. For example, a prominent design feature may convey the architectural character of a structure. Examples are a distinctive roofline, a turret or portico, an arcade, an elaborate entry, or an unusual pattern of windows and doors.

**ARCHITECTURAL ELEMENTS.** The elements that make up an architectural composition or the building form, which may include such features as the roof form, entries, an arcade, porch, columns, windows, doors and other openings. "Architectural elements" is used interchangeably with "architectural features" in this chapter.

**ARCHITECTURAL SCALE.** The perceived height and bulk of a building relative to other forms in its context. Modulating facades and other treatments may reduce a building's apparent height and bulk.

**AREA OF SHALLOW FLOODING.** A designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD.** The land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year.

**AT-RISK TIME IN THE COMMUNITY.** The total time, since first being housed in a Type 4 Group Home located within Lakewood, that a person has resided in the community. This includes any time spent in a Type 4 Group Home, whether in Lakewood or elsewhere, as well as any time residing in the community whether or not under DOC supervision. At-risk time in the community does not include any time spent in confinement whether in a jail, prison, pre-release or work camp. Time spent in such facilities shall be tolled for the purpose of calculating summary recidivism rates.

**AUTO WRECKING YARD.** Any property where two (2) or more motor vehicles not in running condition, or the parts thereof, are stored in the open and are not being restored to operation; or any land, building or structure used for the wrecking or storing of such motor vehicles or the parts thereof.

**AUTOMOBILE AND OTHER VEHICLE SALES AREA.** An open area, other than a street, used for the display, sale or rental of two (2) or more new or used motor vehicles or trailers and where no repair work is done except minor incidental repair of motor vehicles or trailers to be displayed, sold or rented on the premises.

**AUTOMOBILE BODY REPAIR.** Those establishments primarily engaged in furnishing automotive vehicle bodywork and painting.

**AUTOMOBILE SERVICE STATION OR GAS STATION.** A building or lot having pumps and storage tanks where fuels, oils or accessories for motor vehicles are dispensed, sold or offered for sale at retail only, repair service is incidental and no storage or parking space is offered for rent.

**AUTOMOBILE WRECKING OR MOTOR VEHICLE WRECKING.** The dismantling or disassembling of motor vehicles or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts.

**AWNING.** A shelter extending from the exterior wall of a building for the purpose of shielding a doorway or window from the elements and composed of non-rigid materials except for the supporting framework.

**AXIAL SYMMETRY.** The similarity of form or arrangement on either side of a dividing line or plane through the center of an object.

**BACKHAUL NETWORK.** The lines that connect a provider's wireless telecommunications facilities to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

**BALCONY.** An outdoor space built as an above ground platform projecting from the wall of a building and enclosed by a parapet or railing.

**BARN.** A structure used for the storage of farm products, feed, and for housing farm animals and light farm equipment.

**BASE FLOOD.** The flood having a one (1) percent chance of being equaled or exceeded in any given year.

**BASEMENT.** That portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling.

**BAY WINDOW.** A window that protrudes from the main exterior wall. Typically, the bay contains a surface that lies parallel to the exterior wall, and two (2) surfaces that extend perpendicular or diagonally from the exterior wall.

**BEACH ACCESS, PUBLIC OR PRIVATE.** Trails or roads that provide access for the public to the beach.

**BED AND BREAKFAST.** A lodging facility comprised of a single residential structure containing up to six units of small-scale temporary lodging which provides a single meal and where the proprietors of the service reside in the structure.

**BIOSOLIDS.** Municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process, and septage that can be beneficially recycled and meets all applicable health regulations.

**BLANK WALLS.** Walls subject to "blank wall" requirements are any ground-level wall over six feet in height measured from finished grade at the base of the wall, and longer than fifty (50) feet measured horizontally. A wall subject to the requirement does not have any significant building feature, such as a window, door, modulation or articulation, or other special wall treatment within that fifty (50) foot section.

**BLOCK.** All land along one (1) side of a street that is between two (2) intersections or intercepting streets, or interrupting streets and a railroad right-of-way, or unsubdivided land or water course.

**BOARD.** The Planning Advisory Board.

**BOAT RAMP OR LAUNCH.** An improved sloped surface extending from a shoreland area into an aquatic area suitable for removing a boat from the water and launching a boat into the water from a trailer.

**BOATHOUSE, PRIVATE.** An accessory building, or portion of a building, which provides shelter and enclosure for a boat or boats owned and operated only by the occupants of the premises, and which boathouse is erected on a pier or wharf and/or over a dock or docking slip.

**BUILDING COVERAGE.** The measurement of the gross footprint of all the structures, to include accessory and exempt structures, on a lot. The gross footprint includes all structural elements and projections of a building and includes, but is not limited to; eaves, projections, decks, balconies, elevated patios, breezeways, or canopies.

**BUILDING DIVISION.** The Building Division of the City of Lakewood Community Development Department.

**BUILDING FACADE OR FACADE.** The visible wall surface, excluding the roof, of a building when viewed from a public right-of-way or adjacent property. If more than one (1) wall is predominately visible, the walls may be considered one (1) facade for the purposes of signage. A building facade is measured in gross square feet (gsf) and does not include roof area.

**BUILDING HEIGHT.** The vertical distance from the average of the elevation of the natural, undisturbed topography or the pre-existing grade at all corners of a proposed structure to the highest point of the structure, in accordance with LMC 18A.50.130, Height Standards.

**BUILDING LINE.** A line on the comprehensive plan, zoning map, or plat, parallel to the street right-of-way, indicating the limit beyond which buildings or structures may not be erected, or the minimum distance as prescribed by the provisions of this ordinance.

**BUILDING OR OCCUPANCY FRONTAGE.** The length of that portion of a building or ground floor occupancy which abuts a street, publicly used parking area or mall appurtenant to such building or occupancy, expressed in lineal feet and fractions thereof.

**BUILDING, ATTACHED.** A building or structure attached to another building or structure by an enclosed interior wall or walls and covered by a roof in common with both structures. A structure connected to another building or structure only by a roof or only by a wall is not considered attached.

**BUILDING, DETACHED.** A building or structure sharing no common wall with another structure, and generally surrounded by open space on the same lot. A structure connected to another building or structure only by a roof or only by a wall is considered to be a detached building.

**BUILDING, PRINCIPAL.** A building devoted to the principal use of the lot on which it is situated.

**BUILDING.** Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or property of any kind.

**BULKHEAD.** A vertical wall of steel, timber or concrete used for erosion protection or as a retaining wall.

**BUSINESS.** The purchase, sale, or other transaction involving the handling or disposition of any article, service, substance, or commodity for livelihood or profit; or the management of office buildings, offices, recreational or amusement enterprises; or the maintenance and use of buildings, offices, structures, and premises by professions and trades rendering services.

**CAMOUFLAGE.** To disguise, hide, or integrate with an existing or proposed structure or with the natural environment so as to be significantly screened from view.

**CAMPSITE.** A space provided in a campground or recreational vehicle (RV) park which usually contains a table, stove, parking spur and space for a tent to accommodate a one-family group.

**CANOPY.** A permanent, cantilevered extension of a building that typically projects over a pedestrian walkway abutting and running along the facade of a building, with no habitable space above the canopy. A canopy roof is comprised of rigid materials.

**CAR WASH.** Mechanical facilities for the washing or waxing and vacuuming of automobiles, light trucks, and vans.

**CARETAKER HOME.** An on-site residential dwelling unit of up to two thousand (2,000) square feet providing living accommodations for an individual, together with his/her family, who is employed as a caretaker for a private home, public recreational or community facility, or commercial or industrial establishment. Caretaker units may not be a temporary structure or recreational vehicle and may not remain in residential use if no longer used for caretaker residence.

**CARPORT.** A covered automobile structure open on one (1) or more sides, with direct driveway access for the parking stall(s). A carport may be integrated with, or detached from the primary structure. An attached carport shall have common wall construction with the primary structure.

**CARRYING CAPACITY.** The level of development density or use an environment is able to support without suffering undesirable or irreversible degradation.

**CATTERY.** An enclosure or structure in which any combination of six or more cats that individually exceed seven months of age are kept for breeding, sale, or boarding purposes.

**CELL SITE OR SITE.** A tract or parcel of land that contains wireless telecommunications facilities including any antenna, support structure, accessory buildings, and parking, and may include other uses associated with and ancillary to Wireless Telecommunications Facilities (WTF).

**CEMETERIES.** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbiums, mausoleums and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

**CERTIFICATE OF CAPACITY.** A document issued by a service provider indicating the quantity of capacity that has been reserved for a specific development project on a specific property.

**CHANGE OF USE.** A change of use shall be determined to have occurred when it is found that the general character of the use in question has been modified. This determination shall include review of but not be limited to: hours of operation, materials processed or sold, required parking, traffic generation, impact on public utilities, clientele, general appearance and location or a change in use type.

**CITY MANAGER.** The Administrative Director of the City of Lakewood or his/her designee.

**CIRCULATION.** The movement or flow of traffic from one place to another through available routes. Traffic includes a variety of modes of travel including pedestrian, motor vehicle and non-motorized methods such as bicycles.

**CLEAR-VISION AREAS.** A triangular area at intersections or public drives where visual obstructions are to be kept clear as directed by the City Engineer.

**CLOSED RECORD APPEALS.** Administrative appeals under Chapter 36.70B RCW which are heard by the City Council or Hearing Examiner, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appellate arguments allowed.

**CLUSTER DEVELOPMENT.** A development technique wherein home sites or structures are grouped together, with the remainder of the tract left in open space or common open space.

**COFFEE KIOSK** A coffee kiosk is a small stand-alone structure that provides drive-through service of limited food and beverage items. Coffee kiosks shall not include structures with cooking facilities that require a Type I hood, provide indoor customer seating, or exceed 400 square feet in size.

**CO-GENERATION.** The simultaneous production of electricity and heat energy. The heat is normally used onsite for industrial processes, space or water heating, or production steam. The electric power may be used onsite or distributed through the utility grid, or both. Co-

generation units are normally fired with natural gas, but also may be fueled by oil, biomass or other fuels.

COHABITANTS. A group not more than five (5) persons not meeting the definition of “family,” living together as a single housekeeping group in a dwelling unit.

COLLOCATION OF Wireless Telecommunications Facilities (WTF). The use of a WTF by more than one (1) service provider.

COMBINED USE BUILDING. Residential use types in combination with other use types.

COMMERCIAL ACTIVITY. Any activity carried out for the purpose of financial gain for an individual or organization, whether profit or non-profit.

COMMERCIAL VEHICLE. Any motorized vehicle over six thousand (6,000) gvw, including, but not limited to, a van, truck, truck trailer, utility trailer, tractor, grading machine, bulldozer, scraper, boat, motorized crane, or other construction equipment that is used in the operation of a business or in construction, road grading, or logging activities.

COMMON OPEN SPACE. A parcel of land or an area of water or a combination of land and water within a site designed or developed and intended primarily for the use or enjoyment of the residents of such development.

COMMUNAL RESIDENCE. A single family dwelling, without an owner occupant, that is rented to a group of unrelated individuals. A communal residence excludes Types 1, 2, 3, and 4 Group Homes as defined in LMC 18.20.300, Use Types and Levels; hotels and motels as defined in LMC 18A.90.200, and excludes state-licensed foster homes.

COMMUNITY DEVELOPMENT DIRECTOR. The Director of the Community Development Department of the City of Lakewood or his/her designee.

COMPREHENSIVE PLAN. The document, including maps, adopted by the City Council which outlines the City’s goals and policies relating to management of growth and prepared in accordance with Ch. 36.70A RCW. The term also includes any adopted subarea plans prepared in accordance with Ch. 36.70A RCW.

CONCURRENCY. Ensuring that adequate public improvements or strategies are in place at the time of development, and the ability and financial commitment of the service provider to expand capacity or maintain the level-of-service for new development through capital improvements within a six year period as noted in the Transportation Capital Improvement Plan.

CONDITIONAL USE. A use conditionally permitted in a zoning district as defined by this code but which, because of characteristics particular to each such use, size, technological processes, equipment or, because of the exact location with respect to surroundings, streets, existing improvements, or demands upon public facilities, requires a special degree of control to

determine if uses can be made compatible with the comprehensive plan, adjacent uses, and the character of the vicinity.

**CONDOMINIUM.** Real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interest in the common elements are vested in the unit owners, and unless a declaration and a survey map and plans have been recorded. Condominiums must meet all provisions of Chapter 64.34 RCW.

**CONSTRUCTED WETLANDS.** Wetlands that are intentionally created on sites that are not wetlands for the primary purpose of wastewater or stormwater treatment. Constructed wetlands are normally considered as part of the stormwater/wastewater collection and treatment system and must be maintained, but are not the same as wetlands created for mitigation purposes, which are typically viewed in the same manner as natural, regulated wetlands.

**CONTIGUOUS.** Bordering upon, to touch upon, or in physical contact with.

**CORRECTIONAL FACILITIES.** Facilities for holding persons in custody or in detention, including county jails, state prisons, juvenile detention facilities, pre-release facilities, work release facilities, and other facilities to which a person may be incarcerated upon arrest or pursuant to sentencing by court.

**COURTYARD, INTERIOR COURT.** A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three (3) or more sides by walls of a building.

**COURTYARD.** A courtyard is an open space usually landscaped, which is enclosed on at least three (3) sides by a structure or structures.

**CROP AND TREE FARMING.** The use of land for horticultural purposes.

**CURB CUT.** A curb cut is a depression in the curb for a driveway to provide vehicular access between private property and the street.

**CURB LEVEL.** Curb level for any building means the level of the established curb in front of such building measured at the center of such front. Where no curb elevation has been established, the mean elevation of the finished lot grade immediately adjacent to a building shall be considered the curb level.

**DANGEROUS WASTE.** Any discarded, useless, unwanted, or abandoned substances including, but not limited to, certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes: have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or are corrosive, explosive, flammable, or may generate pressure through decomposition or other

means. Includes wastes designated in WAC 173-303-070 through 173-303-103 as dangerous wastes.

**DAYCARE CENTER.** A daycare facility which operates in a place other than a residence, with no limitation as to the number of clients.

**DAYCARE FACILITY.** A building or structure in which care is regularly provided for a group of children or adults for periods of less than twenty-four (24) hours. Day care facilities include family day care homes and day care centers regulated by the Washington State Department of Social and Health Services or successor agency, as presently defined and as may be hereafter amended (RCW 74.15, WAC 388-73-422).

**DAYCARE, HOME.** A daycare facility which operates in the provider's residence and is subject to a limitation on the number of clients.

**DAYCARE, HOME-BASED.** A daycare facility with no more than twelve (12) persons in attendance at any one time in the provider's home in the family living quarters, including immediate family members who reside in the home.

**DECIBEL.** A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated by decibels.

**DECIDUOUS TREE.** A tree which loses its foliage annually.

**DECK.** A deck is a roofless, outdoors above ground platform projecting from the wall of a building and supported by piers or columns.

**DEPARTMENT.** The City of Lakewood Community Development Department.

**DESIGN DETAILS.** Architectural or building design details refer to the minor building elements that contribute to the character or architectural style of the structure. Design details may include moldings, mullions, rooftop features, the style of the windows and doors, and other decorative features.

**DESIGN, Wireless Telecommunications Facilities (WTF).** The appearance of WTF, including such features as their materials, colors, and shape.

**DESIGNATED ZONE FACILITY.** Any hazardous waste facility that requires an interim or final status permit under rules adopted under Chapter 70.105 RCW and Chapter 173-303 WAC, and that is not a preempted facility as defined in RCW 70.105.010 or in Chapter 173-303 WAC. A hazardous waste treatment or storage facility is a designated zone facility.

**DEVELOPMENT (for the purposes of Flood Hazard).** Any constructed changes to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavator, or drilling operations.

**DEVELOPMENT ACTIVITY.** Any action taken either in conjunction with a use or to make a use possible. Activities do not in and of themselves result in a specific use. Most activities may take place in conjunction with a variety of uses.

**DEVELOPMENT PERMIT.** Any document granting, or granting with conditions, an application for a site plan, building permit, discretionary decision, or other official action of the City having the effect of authorizing the development of land.

**DEVELOPMENT PLAN.** A plan drawn to scale, indicating but not limited to, the proposed use, the actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any, and the location on the lot of the proposed building or alteration, yards, setbacks, landscaping, off-street parking, ingress and egress, and signs.

**DEVELOPMENT STANDARDS.** Regulation of the location and size of development, including but not limited to setbacks, landscaping, screening, height, site coverage, signs, building layout, parking and site design and related features of land use.

**DISCONTINUANCE.** The abandonment or nonuse of a building, structure, sign or lot.

**DISCRETIONARY PERMIT.** A decision which requires special analysis or review due to the nature of the application or because special consideration was requested by the applicant.

**DISTRICT.** An area designated by this title, with specific boundaries, in which lie specific zones, or special purpose area as described in this title.

**DOCK-HIGH LOADING AREAS.** Truck maneuvering areas and loading or unloading areas associated with loading doors that are located above the finish grade.

**DOCKS.** A pier or secured float or floats for vessel moorage, fishing, or other water use.

**DOUBLE-FRONTAGE LOT.** A lot other than a corner lot with frontage on more than one (1) street.

**DRAINAGE DITCH.** A constructed channel with a bed, bank or sides which discharges surface waters into a major or minor creek, lake, pond or wetland.

**DRIPLINE.** A circle drawn at the soil line directly under the outermost branches of a tree.

**DRIVE-THROUGH.** A business establishment, building, or structure which, by design, physical facilities, or services or products format encourages or permits customers to access sales or services from a service window while remaining in their vehicles, with access provided by a dedicated lane or lanes incorporated into the site design.

**DRIVEWAY.** A paved or graveled surface a minimum of fifteen (15) feet in width that provides access via a paved apron to a lot from a public or private right-of-way.

**DUPLEX.** One (1) detached residential building, vertically or horizontally attached, containing two (2) dwelling units totally separated from each other by a one (1) hour firewall or floor, designed for occupancy by not more than two (2) families.

**DWELLING UNIT.** One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or communal residence, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure or on the same property, and containing independent cooking, sleeping and sanitary facilities. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. An efficiency apartment, also known as a studio apartment, constitutes a dwelling unit within the meaning of this title.

**DWELLING.** A building or portion thereof designed exclusively for human habitation, but not including hotels or motel units.

**EASEMENT.** A non-possessory interest in the land of another which entitles the owner of the interest to a limited use or enjoyment of the other's land for the purpose of and to protection from interference with this use by a public or private street, railroad, utilities, transmission lines, walkways, sidewalks, bikeways, equestrian trails, and other similar uses. An easement may be exclusive or include more than one (1) user.

**EFFLUENT.** With regard to water quality, treated or untreated liquid entering the estuary from a point source. With regard to dredging, water, including dissolved and suspended materials, which flows from a dredged material disposal site.

**EQUIPMENT ENCLOSURE.** A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies, and emergency generators.

**ERECT.** The act of placing or affixing a component of a structure upon the ground or upon another such component.

**ESCAPE.** Unauthorized absence from the designated facility boundary or failure to return to such place at the appointed time after having been permitted to leave.

**EVERGREEN TREE.** A tree, often a coniferous tree, which retains its foliage and remains green year round.

**EXCAVATE.** The removal by man of sand, sediment, or other material from an area of land or water for other than commercial or industrial use.

**EXTREMELY HAZARDOUS WASTE.** Any waste which will persist in a hazardous form for several years or more at a disposal site and which in its persistent form presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic constitution of humans or other living creatures and is disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment. Those wastes designated in WAC 173-303-070 through 173-303-103 as extremely hazardous wastes.

**FACADE.** Any portion of an exterior elevation of a building extending from the ground level to the top of the parapet wall or eaves, for the entire width of the building elevation. A front facade is typically the facade facing the major public street(s). An entry facade is typically the facade with the primary public entry.

~~**FAMILY.** One (1) or more individuals related by blood or legal familial relationship, or a group of not more than six persons who need not be related by blood or a legal familial relationship, living together in a dwelling unit as a single, nonprofit housekeeping unit, excluding Types 1, 2, 3, and 4 Group Homes as defined in LMC 18.20.300, Use Types and Levels; and excluding state licensed foster homes.~~

A person, or two (2) or more persons related by blood or marriage or law living together as single housekeeping unit in a single dwelling. In addition, the following uses shall be accepted as families pursuant to the requirements of state and/or federal law:

A. Adult family homes licensed pursuant to RCW 70.128.150;

B. Foster homes for the placement of the disabled, or expectant mothers in a residential setting including, but not limited to, foster family homes licensed pursuant to Chapter 74.15 RCW, community group care facilities licensed pursuant to Chapter 74.15 RCW and crisis residential centers pursuant to Chapter 13.32A RCW; and

C. Consensual living arrangements of the disabled protected pursuant to the Federal Fair Housing Act amendments.

Secure community transition facilities, as defined in Chapter 71.09 RCW, are not protected under the definition of “family.”

Group Homes, Type 3, 4, and 5, as defined in LMC18A.20.300, Use Types and Levels, are not protected under the definition of “family.”

(For unrelated persons residing together, see “Cohabitants.”)

**FAMILY HOME, FOSTER.** An agency which regularly provides care on a twenty-four (24) hour basis to one (1) or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed.

FAMILY MEMBERS. Persons related by blood, marriage or adoption, including foster children.

FEDERAL INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones for those areas.

FENCE, SIGHT-OBSCURING. A fence constructed of solid wood, masonry, metal or other appropriate material that totally conceals the subject use from adjoining uses.

FILL. The placement by man of sand, sediment or other material to create new uplands or raise the elevation of the land.

FINAL DEVELOPMENT PLAN. A plan or set of plans that comply with the conditions set forth in a preliminary approval and, once approved, authorizes the granting of a discretionary permit.

FLAGPOLE. A staff or pole which is designed to display a flag. A flagpole may be freestanding or attached to a building or to a private light standard.

FLEA MARKET. Arrangements whereby a person or persons sell, lease, rent, offer or donate to one (1) or more persons a place or area where such persons may offer or display secondhand or junk items.

FLOOD HAZARD BOUNDARY MAP (FHBM). The official map issued by the Federal Insurance Administration where the boundaries of the areas of special flood hazards applicable to the city of Lakewood have been designated as Zone A.

FLOOD INSURANCE STUDY. The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary - Floodway Map and the water surface elevation of the base flood.

FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation or normally dry land areas from the overflow of inland or tidal waters and/or the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPLAIN. The area adjoining a stream, tidal estuary or coast that is subject to regional flooding. A regional (100-year) flood is a standard statistical calculation used by engineers to determine the probability of severe flooding. It represents the largest flood which has a one (1) percent chance of occurring in any one (1) year in an area as a result of periods of higher than normal rainfall or streamflows, extremely high tides, high winds, rapid snowmelt, natural stream blockages, tsunamis, or combinations thereof.

FLOODPLAIN MANAGEMENT REGULATIONS. State or local regulations, and any combination thereof, which provides standards for the purpose of flood damage prevention and reduction.

**FLOODPROOFING.** A combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

**FLOODWAY, REGULATORY.** The channel or the watercourse reasonably required to carry and discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**FLOOR AREA.** The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings, but not including attic space providing headroom of less than seven feet or basement if more than fifty (50) percent of the basement is less than grade.

**FLOOR AREA RATIO (FAR).** The floor area ratio of the building or buildings on any lot means the gross floor area of the building or buildings on that lot divided by the gross area of such lot.

**FOOTCANDLE.** A footcandle is a unit used for measuring the amount of illumination on a surface. The amount of usable light from any given source is partially determined by the angle of incidence of the source and the distance to the illuminated surface.

**FREEWAY.** Any section of a highway which has been declared to be a freeway by act or resolution of the competent establishing authority.

**FRONTAGE ROAD.** A street which is parallel and adjacent to an arterial, and which provides access to abutting properties while relieving them of the effect of street traffic access on to and from an arterial.

**FRONTAGE.** Frontage refers to length of a property line along a public street or right-of-way.

**GARAGE.** An enclosed automobile structure with direct driveway access principally for vehicular equipment such as automobiles, boats, etc., used by the tenants of the building(s). A garage may be integrated with, attached, or detached from the primary structure. See also **PARKING STRUCTURE.**

**GAS ISLANDS.** In conjunction with a motor vehicle service station or convenience commercial use providing gasoline, individual gas islands are comprised of single pumps dispensing single or various grades and types of motor vehicle fuel, or individual banks of pumps dispensing single or various grades and types of motor vehicle fuel, whether or not covered by a single canopy.

**GATEWAYS.** As used in these guidelines, the term gateway refers to those areas which are entranceways into the City of Lakewood and are so designated in the Lakewood Comprehensive Plan.

**GEOLOGIC.** Relating to the occurrence and properties of earth. Geologic hazards include but are not limited to faults, land and mudslides, and earthquakes.

**GOVERNING AUTHORITY.** The City Council of the City of Lakewood.

**GRADE, AVERAGE.** The average elevation of the undisturbed ground prior to construction at all exterior corners of the proposed structure.

**GRADE, FINISHED.** The finished surface of the ground, street, paving or sidewalk.

**GRADE, PRE-CONSTRUCTION.** Prior to any grade, fill or disturbance of soil or vegetation.

**GROSS AREA.** The total sum area of the lot minus public rights-of-way.

**GROSS DENSITY.** A calculation of the number of housing units that is allowed on a property based on the maximum density permitted.

**GROSS SQUARE FEET (GSF).** The sum of the total square footage of any building, lot, property or area.

**GROUND COVER.** Low-growing vegetative materials with a mound or spreading manner of growth that provides solid cover.

**GUYED TOWER.** A wireless communication support structure that is typically over 100 feet tall and is steadied by wire guys in a radial pattern around the tower.

**HABITABLE FLOOR (for purposes of floods).** Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a "habitable floor."

**HABITABLE ROOM (for purposes of floods).** An undivided enclosed space within a dwelling used for sleeping or kitchen facilities. This term does not include attics, cellars, corridors, hallways, laundries, serving or storage pantries, bathrooms or similar places.

**HABITAT.** The place or type of site where an organism lives; the place occupied by an entire community, such as a freshwater tidal marsh community.

**HAZARDOUS SUBSTANCE.** Any liquid, solid, gas or sludge, including any material, substance, product, commodity or waste, regardless of quantity, that exhibits any of the characteristics or criteria of hazardous waste as described in rules adopted under Chapter 70.105 RCW or in WAC 173-303-090, 173-303-100, 173-303-101, 173-303-102 or 173-303-103.

**HAZARDOUS SUBSTANCE FACILITY BUFFER.** A setback area between the hazardous substance land use facility boundary and the nearest point of the hazardous substance

land use property line, necessary to provide added protection to adjacent land uses or resources of beneficial use. All hazardous waste treatment and storage facilities must maintain at least a fifty (50) foot buffer.

**HAZARDOUS SUBSTANCE LAND USE.** Any use which is permitted under this title and which includes a designated facility or the processing or handling of a hazardous substance.

**HAZARDOUS SUBSTANCE LAND USE FACILITY.** The projected line enclosing the area of all structures and lands on which hazardous substance land use activities occur, have occurred in the past or will occur in the future. This does not include the application of products for agricultural purposes or the use, storage, or handling of hazardous substances used in public water treatment facilities.

**HAZARDOUS SUBSTANCE PROCESSING OR HANDLING.** The use, manufacture, compounding, treatment, synthesis or storage of hazardous substances in excess of the following amounts of cumulative quantities: five thousand (5,000) pounds of solid hazardous substances, five hundred (500) gallons of liquid hazardous substances, six hundred fifty (650) cubic feet of gaseous hazardous substances, or equivalent combination thereof. Hazardous substances shall not be disposed on-site unless in compliance with Dangerous Waste Regulations, WAC 173-303, and any pertinent local ordinances, such as sewer discharge standards.

**HAZARDOUS WASTE.** Any dangerous and extremely hazardous waste as designated pursuant to RCW 70.105, WAC 173-303, including substances composed of radioactive and hazardous components. A moderate risk waste is not a hazardous waste.

**HAZARDOUS WASTE FACILITY.** The contiguous land and structures, other appurtenance and improvements on the land used for recycling, storing, treating, incinerating or disposing of hazardous waste.

**HAZARDOUS WASTE STORAGE FACILITY.** Any designated zone facility which holds hazardous waste for a temporary period not to exceed five (5) years; this does not include accumulation of hazardous waste by the generator on the site of generation, as long as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201.

**HAZARDOUS WASTE TREATMENT FACILITY.** Any designated zone facility which processes hazardous waste by physical, chemical or biological means to make such waste nonhazardous or less hazardous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume.

**HAZARDOUS WASTE TREATMENT OR STORAGE FACILITY, OFFSITE.** Any hazardous waste treatment or storage facility that treats or stores any waste that is generated off the site.

**HAZARDOUS WASTE TREATMENT OR STORAGE FACILITY, ONSITE.** Any hazardous waste treatment or storage facility that treats or stores only that waste that is generated on the site.

**HEARING EXAMINER REVIEW.** A process involving the judgment and discretion of the Hearing Examiner in applying specific decision criteria and other requirements unique to a particular use in the approval of an activity permitted, or permitted conditionally, within a zoning district.

**HEARING EXAMINER.** A person appointed by the City to carry out the functions authorized under LMC 18A.02, Administration, and Chapter 35A.63 RCW.

**HOLIDAY DECORATIONS.** Temporary messages, displays, lighting, or decorations celebrating national, state, local, ethnic, and religious holidays or holiday seasons.

**HOME OCCUPATION.** Any occupation, profession or lawful commercial activity carried on by a resident living on the premises, and in which said activity is secondary to the use of the dwelling for living purposes, provided that the occupation or profession meets the requirements of LMC 18A.70.250.A and C.

**HOME OCCUPATION, LIMITED.** Any occupation, profession or lawful commercial activity carried on entirely within the dwelling, solely by a resident living on the premises, and which said activity is secondary to the use of the dwelling for living purposes; provided that the limited home occupation meets the requirements of LMC 18A.70.240.A-B.

**HOMEOWNERS' ASSOCIATION.** An incorporated, nonprofit organization operating under recorded land agreements through which each lot owner is automatically a member, and, each lot is automatically subject to a charge for a proportionate share of the common property, and, a charge, if unpaid, becomes a lien against the property.

**HORTICULTURE.** The cultivation of plants, garden crops, trees and/or stock.

**HOTEL.** A single building or a group of detached or semi-detached buildings containing six (6) or more guest rooms or self-contained suites, with parking provided on the site for the use of those staying in the rooms or suites, which is or are designed and used for the accommodation of transient travelers for a period not to exceed thirty (30) days.

**HUMAN SCALE.** The size of a building element or space relative to the dimensions and proportions of a human being.

**IMPERVIOUS SURFACE.** A hard surface area which either prevents or retards the entry of water into the soil mantle as it entered under natural conditions preexistent to development, or that hard surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions preexistent to development. Common impervious surfaces include but are not limited to rooftops, concrete or asphalt paving, paved walkways, patios, driveways, parking lots or storage areas, grasscrete, and oiled, macadam or other surfaces, which similarly impede the natural infiltration of surface water. Open, uncovered retention/detention facilities shall not be considered impervious surfaces.

**INCIDENTAL USE.** A use that is in conjunction with, and smaller than the main part of a facility or use.

**INCOMPATIBLE USES.** For the purpose of community design, incompatible uses are those uses, including, but not limited to, outdoor storage, utilities equipment and apparatus, and loading and service facilities, which are considered to be visually intrusive, unsightly and which require site design and screening to mitigate the negative impacts to retail, service and office commercial uses and residential development.

**INDUSTRIAL PRETREATMENT FACILITY.** Treatment devices and structures used for the treatment of industrial wastewater prior to being released into a wastewater collection or conveyance system.

**INTERIOR LOT AREA.** Any area of a lot that is not within a required perimeter or buffer area.

**JUDICIAL APPEALS.** Appeals filed by a party of record in Pierce County Superior Court.

**KENNEL.** An enclosure or structure in which any combination of six (6) or more dogs that individually exceed seven (7) months of age are kept for breeding, sale, training, boarding, or sporting purposes.

**KITCHEN.** Any room or rooms, or portion of a room or rooms, used or intended or designed to be used for cooking or the preparation of food.

**LAKE.** A natural or artificial body of water of two (2) or more acres or where the deepest part of the basin at low water exceeds two (2) meters. Artificial bodies of water with a recirculation system approved by the City Engineer are not included in this definition.

**LANDFILL, DEMOLITION.** A solid waste facility for the permanent disposal of demolition wastes resulting from the demolition or razing of buildings, roads and other man-made structures, consisting of, but not limited to, concrete, brick, bituminous concrete, wood and masonry, composition roofing and roofing paper, steel and minor amounts of other materials. Plaster or other materials likely to produce leachate is not demolition waste.

**LANDFILL, INERT.** A solid waste facility for the permanent disposal of inert materials which are non-combustible and non-dangerous wastes likely to retain their physical and chemical structure including resistance to biological and chemical attack from acidic rainwater.

**LANDFILL, MUNICIPAL SOLID WASTE.** A solid waste facility for the permanent disposal of mixed household, commercial or industrial waste from municipal sources delivered by hauling companies or self-hauled by residents or businesses.

**LANDFILL, SPECIAL WASTE.** A solid waste facility for the permanent disposal of one (1) specific type of waste of limited, known and consistent composition such as an ash monofill, a landspreading disposal facility for biosolids, problem waste landfill or any facility

which is not previously defined but is permitted with a state solid waste permit as a "limited purpose landfill."

**LANDFILL, WOOD WASTE.** A solid waste facility with two thousand (2,000) or more cubic yards of capacity for the permanent disposal of wood waste which does not contain chemical preservatives. This does not include wood waste landfills on forest lands regulated under the state Forest Practices Act but does include facilities which use wood waste as a component of fill.

**LANDFILL.** A solid waste facility for the permanent disposal of solid wastes in or on the land which requires a solid waste permit under RCW 70.95.

**LANDSCAPING.** Vegetative cover including shrubs, trees, flowers, ground cover and other similar plant material.

**LARGE-SCALE COMMERCIAL FACILITIES.** Principal, anchoring retail use integrated with other commercial or services uses under common ownership or use exceeding 100,000 square feet of cumulative gross floor area. For this purpose, "under common ownership or use" shall mean a single establishment which shares checkstands, management, a controlling ownership interest, or storage areas, e.g., a hardware/nursery, pharmacy, and/or grocery component associated with a general merchandise store.

**LATTICE TOWER.** A support structure which consists of a network of crossed metal braces, forming a tower which is usually triangular or square in cross-section.

**LOADING SPACE, OFF-STREET.** In space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such deliveries when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

**LOCAL ROAD OR STREET.** A road or street which is used or intended to be used primarily for providing access to abutting properties.

**LOT.** A fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area, and developed or built upon as a unit. The term shall include "tracts" or "parcels".

**LOT AREA.** The total area, in gross square feet (gsf), within the lot lines of a lot, excluding right-of-way. For the purposes of flood regulations, any portion of a lot lying below the ordinary high water mark or lawfully constructed bulkhead shall not be included in a lot area calculation.

**LOT COVERAGE.** The area of a lot covered by a building or buildings, expressed as a percentage of the total lot area.

**LOT DEPTH.** The perpendicular distance measured from the mid-point of the front lot line to the mid-point of the opposite lot line.

**LOT LINE.** The property line bounding a lot.

**LOT LINE, FRONT.** Normally, the property line separating the lot from the street, other than an alley, from which access is provided to the lot. For the purpose of establishing setback requirements, orientation of the dwelling unit shall be independent of access to the parcel. In the case of a corner lot, the front lot line shall be the property line with the narrow dimension adjacent to the street.

**LOT LINE, REAR.** The lot line which is opposite and most distant from the front lot line and which is in the same plane and runs parallel to the front lot.

**LOT LINE, INTERIOR.** Any property line which is neither a front nor a rear lot line.

**LOT OF RECORD.** A lot that is part of a subdivision recorded, pursuant to statute, with the Pierce County Auditor, or a legally created lot under state and local subdivision on regulations in effect at the time of creation or a lot described by metes and bounds, the description of which has been so recorded.

**LOT, BUILDABLE.** A legal lot which is proposed for use in compliance with this title, and has received approval of the water supply and sewage disposal method as appropriate to such use.

**LOT, CORNER.** A lot of which at least two (2) adjacent sides abut streets other than alleys.

**LOT, CUL-DE-SAC.** A lot which has a front lot line contiguous with the outer radius of the turn-around portion of a cul-de-sac.

**LOT, FLAG.** A flag lot is surrounded by abutting lots with an extended access way to a street right-of-way.

**LOT, INTERIOR.** A lot other than a corner lot.

**LOT, THROUGH.** An interior lot having frontage on two (2) streets, and which is not a corner lot.

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

**LOWEST FLOOR.** For flood purposes, any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a lowest floor.

LUMEN. A lumen is a unit used for measuring the amount of light energy given off by a light source.

(see next Section for Additional Definitions)

Section 7: Section 18A.90.200A LMC entitled "Definitions" is amended to read as follows:

**MAINTENANCE.** Routine upkeep of existing structure or facilities which are in current use or operation.

**MAJOR COMMERCIAL OR EMPLOYMENT CENTERS.** An integrated planned development within the NC2, CBD, SD, C1, C2, IBP, I1, and I2 zoning districts with contiguous ownership larger than 12 acres in size. Contiguous properties under separate control, but which function as an integrated center and when combined are larger than 12 acres in size, may be considered a major center.

**MANUFACTURED HOME PARK.** A tract of land that was permitted, designed, and maintained under a single ownership or unified control where two (2) or more spaces or pads are provided solely for the placement of manufactured homes for residential purposes with or without charge. A manufactured home park shall not include manufactured home subdivisions or recreational vehicle parks.

**MANUFACTURED HOME SPACE.** An apportioned piece of land within a park designed to accommodate a single manufactured home, also known as a "pad".

**MANUFACTURED HOME.** A factory-assembled structure that was constructed in accordance with the 1976 or later HUD federal Manufactured Housing Construction and Safety Standards Act in effect at the time of construction, and displays the appropriate HUD or Department of Labor and Industries label,

- a. is suitable for movement along public highways;
- b. is intended solely for human habitation; and
- c. has sleeping, eating and plumbing facilities.

Manufactured homes do not include modular homes or recreational vehicles as herein defined. For the purpose of flood hazard regulations only, a manufactured home is a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It includes recreational vehicles or travel trailers that are placed on a site for more than one hundred eighty (180) consecutive days.

**MAP.** A representation, usually on a flat surface, of the whole or part of an area.

**MARINA.** Facilities which provide moorage, launching, storage, supplies and a variety of services for recreational, commercial and fishing vessels. They are differentiated from docks and moorages by their larger scale, the provision of significant shore or land-side services and/or the use of a solid breakwater (rock, bulkheading, etc.).

**MAXIMUM DENSITY.** The maximum number of dwelling units allowed per gross acre (dua), excluding accessory dwelling units.

**MEAN HIGH WATER (MHW).** The average height of all high waters over a nineteen (19) year period.

**MINI-WAREHOUSE.** A facility consisting of separate storage units which are rented to customers having exclusive access to their respective units for storage of residential or commercial oriented goods. No business is conducted out of storage units.

**MITIGATE.** To alleviate the negative impacts of a particular action.

**MITIGATION.** Any action that, to some degree, softens the impact of development on critical or sensitive areas. This may include all or any one of the following actions:

- a. avoiding the impact altogether by not taking a certain action or parts of an action;
- b. minimizing impacts by limiting the degree or magnitude of an action and its implementation;
- c. rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- d. reducing or eliminating the impact over time by preservation and maintenance operations; and
- e. compensating for the impact by creation, restoration, or enhancement of critical or sensitive areas to maintain their functional processes, such as natural biological productivity, habitat, and species diversity, unique features and water quality. Any mitigation action or combination of actions may involve monitoring and remedial follow-up measures.

**MOBILE HOME PAD.** That part of a mobile home space which has been reserved for the placement of the mobile home, appurtenant structures, or addition.

**MOBILE HOME PARK.** An area under one (1) ownership designed to accommodate ten or more mobile homes (see Manufactured Home for definition of mobile home).

**MOBILE HOME.** A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, that was constructed prior to June 15, 1976 and/or does not conform to [HUD] Manufactured Housing Construction and Safety Standards Act. Mobile home

does not include recreational vehicles. The appropriate HUD or Department of Labor and Industries label is displayed.

**MOBILE TRANSMISSION FACILITY.** A movable, non-stationary transmission facility that contains wireless telecommunications equipment including any antenna, support structure, accessory structures, and may include other uses associated with and ancillary to wireless telecommunications facilities.

**MOBILE VENDING.** Any for-profit or non-profit business selling food and/or drink at or adjacent to the vehicle or cart in which such items are carried and/or prepared. This definition shall not include businesses providing or offering to provide scheduled delivery of food products to individual residences.

**MODERATE RISK WASTE FIXED FACILITY.** A solid waste transfer facility needing a state solid waste permit which specializes in the collection of household hazardous waste for packaging for transport to a disposal facility for recycling. It may collect limited amounts of hazardous waste from small quantity generators that are businesses which generate hazardous waste in quantities below the threshold for regulation under Washington Dangerous Waste Regulations (RCW 70.105).

**MODERATE RISK WASTE.** Those wastes defined in WAC 173-303-040 as moderate risk wastes. This may include any waste that exhibits any of the properties of hazardous waste but is exempt from regulation under Chapter 70.105 RCW solely because the waste is generated in quantities below the threshold for regulation, and any household waste which is generated from the disposal of substances identified by the Department of Ecology as hazardous household substances.

**MODIFICATION.** The changing of any portion of a wireless telecommunications facility from its description in a previously approved permit, excluding routine maintenance and repair. Examples include, but are not limited to, changes in design or structure, changes in the heights of towers or monopoles, changes in any accessory structures or appurtenances that are affiliated with or support a wireless telecommunications facility.

**MODULAR HOME.** A detached dwelling that is designed for human habitation, is either entirely or substantially prefabricated at a place other than a building site, and is constructed or installed on the site in accordance with the UBC and bearing the appropriate insignia indicating such compliance. Modular homes are also commonly referred to as "prefabricated", "panelized", or "factory-built" units.

**MODULATION.** A stepping back or projecting forward of portions of a building facade within specified intervals of building width and depth as a means of breaking up the apparent bulk of a structure's continuous exterior walls.

**MONOPOLE TOWER.** A support structure which consists of a single pole sunk into the ground and/or attached to a foundation.

**MOORAGE.** Piling or a dock, or both, used to secure a boat or barge.

**MOTEL.** A building or group of buildings on the same lot, containing units with separate entrances and consisting of individual sleeping quarters detached or in connected rows, with or without cooking facilities, for rental to transients and guests for compensation.

**MOTOR VEHICLE.** Motor vehicle includes every device capable of being moved upon a public highway and in, upon, or by which any person or property is or may be transported or drawn upon a public highway except for mopeds, bicycles and other devices moved by human or animal power or used exclusively upon stationary rails or tracks.

**MOTOR VEHICLE SERVICE OR REPAIR.** Those establishments engaged in fixing, engine tune-up, adjusting lights or brakes, or supplying and installing replacement parts of or for passenger vehicles and trucks.

**MOTOR VEHICLE SERVICE STATION.** Any premises used for supplying gasoline, oil, minor accessories and services, excluding body and fender repair, for automobiles at retail direct to the customer.

**MOUNT.** The structure or surface upon which wireless telecommunications facilities are mounted. There are three (3) types of mounts:

a. **Building mounted.** A wireless telecommunications facility mount fixed to the roof or side of a building.

b. **Ground mounted.** A wireless telecommunications facility mount fixed to the ground, such as a tower.

c. **Structure mounted.** A wireless telecommunications facility fixed to a structure other than a building, such as light standards, utility poles, water towers, and bridges.

**MULTIFAMILY DESIGN REVIEW.** An administrative process for the purpose of reviewing multifamily development applications for compliance with specific site design, landscape design and building design criteria.

**MULTIFAMILY DWELLING.** Multiple residential units within a single residential structure, or multiple residential structures, which provide separate living accommodations for multiple individuals or families. Multifamily dwelling units are typically under common ownership and management but may be separately owned condominium units on a commonly owned parcel or cooperatively owned.

**MURAL.** A picture on an exterior surface of a structure. A mural is a sign only if it is related by text, logo, or pictorial depiction to the advertisement of any product or service or the identification of any business.

**NATURAL AREAS.** All or portions of a parcel of land undisturbed by development and maintained in a manner which preserves the indigenous plant materials.

**NEIGHBORHOOD PARK OR PLAYGROUND.** An area for recreational activities, such as but not limited to field games, court games, crafts, playground apparatus area, skating, walking, viewing, picnicking, wading pools, swimming pools.

**NET ACREAGE.** The buildable area after the area of street right-of-way has been subtracted.

**NOISE LEVEL REDUCTION (NLR).** Difference in noise level from outside to inside of the building. NLR is a difference, in decibels, between A-weighted sound levels; it depends primarily on the nature of the walls, ceilings, windows, doors and vents and, to a lesser extent, on the amount of sound-absorbing material in the room in which the sound is received. It shall be measured, if so required, by the building official, in a completed and furnished building by application of the testing procedure described in this section.

**NONCONFORMING LOT.** A lot which does not conform to the design or density requirements of the zoning district in which it is located. A non-conforming lot is a lot that was legal when it was created but no longer meets the current area, width, or depth dimensional requirements for the zoning district in which the property is located. Nonconforming lots may be occupied by any permitted use in the district, provided that all other development regulations in effect at the time of development must be met.

**NONCONFORMING STRUCTURE.** A nonconforming structure is one which was lawfully erected in conformance with the regulations in effect at the time of its construction but which no longer conforms to current development standards including, but not limited to design, height, setback or coverage requirements of the zoning district in which it is located. A structure shall not be considered non-conforming for the purposes of this code if the only nonconforming aspect is failure to comply with the Chapter 18A.50.200, Community Design Standards.

**NONCONFORMING USE.** The use of land, a building or a structure lawfully existing prior to the effective date of this title or subsequent amendments thereto, which does not conform with the regulations of the district in which it is located.

**NONCONFORMITY.** Any land use, structure, lot or sign legally established prior to the effective date of this title or subsequent amendment, which is no longer permitted by or in full compliance with the regulations of this title.

**NON-PROJECT ACTION.** A decision on a policy, plan or program, which is not related to a specific project and/or which affects a significant portion of or the City of Lakewood in its entirety, including but not limited to the adoption or amendment of the comprehensive plan, development regulations, and/or subarea plans, zoning of newly annexed land, area-wide rezones, and zoning map amendments, except for site specific rezones authorized by the comprehensive plan.

**NON-VEGETATIVE GROUNDCOVER.** Bark mulch, gravel and other nonvegetative materials that promote vegetative growth by retaining moisture or preventing weeds.

**NON-WHIP ANTENNA.** An antenna that is not a whip antenna, such as dish antennas, panel antennas, etc.

**NOXIOUS MATTER.** Materials that are capable of causing injury to living organisms by chemical reaction or are capable of causing detrimental effects upon the psychological, social, or economic well-being of human beings.

**NURSERY, HORTICULTURAL.** A place where trees, shrubs, vines, etc. are propagated for transplanting or for use as stocks for grafting and where such flora can be sold.

**NURSING HOME.** A multi-unit or multi-bed facility that are licensed or approved to provide living accommodations and round-the-clock health care and medical supervision.

**OCCUPANCY.** The purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

**OCCUPANT.** A person, family, group, or organization who is using or living in a particular building, apartment, or room.

**ODOR CONTROL STRUCTURE.** Equipment or structures appurtenant to wastewater conveyance facilities used to lessen the odors of the liquids being transported.

**OFFICIAL CONTROLS.** Legislatively defined and enacted policies, standards, precise detailed maps and other criteria, all of which control the physical development of the county, and are the means of translating into regulations and ordinances all or any part of the general objectives of the comprehensive plan.

**OFFICIAL MAP.** Maps that show the designation, location and boundaries of the various districts which have been adopted and made a part of this title.

**OFF-SITE.** With respect to mitigation, an area separated from the impact area by a significant distance and that offers little or no opportunity for reestablishing lost values and functions to organisms which originally benefited from the lost habitat.

**OFFSITE HAZARDOUS WASTE TREATMENT OR STORAGE FACILITY.** Any hazardous waste treatment or storage facility which treats or stores wastes that are generated off the site.

**ON-SITE.** With respect to mitigation, an area adjacent to or near the impact area that offers a reasonable opportunity for reestablishing lost values and functions to organisms which originally benefited from the lost habitat.

**ONSITE HAZARDOUS WASTE TREATMENT OR STORAGE FACILITY.** Any hazardous waste treatment or storage facility that treats or stores only those wastes that are generated on the site.

**OPEN HOUSE.** A temporary real estate event where a property owner or his representative opens a structure or structures on one or more contiguous Pierce County Assessor's tax parcels with single or the same ownership, to be inspected by the general public for the sole purpose of sale, rent, or lease of a structure thereon.

**OPEN RECORD HEARING.** A hearing held by a decision-making body who is authorized by the city to conduct such hearings, that creates the city's record through testimony and submission of evidence and information, under procedures prescribed by the city by ordinance or resolution.

**OPEN SPACE.** Land used for farm or forest uses, and any land area that would, if preserved and continued in its present use:

- a. Conserve and enhance natural or scenic resources;
- b. Protect air or streams or water supply;
- c. Promote conservation
- d. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature preservations or sanctuaries or other open space.

**ORDINARY HIGH-WATER MARK.** That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on the effective date of this title, or as it may naturally change thereafter; provided, that in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark shall be the line of mean high water.

**ORNAMENTAL TREE.** A tree that is either a conifer or deciduous tree that is accessory, decorative, enhance and accent the general landscaping of the site. Ornamental trees are generally between eight (8) and twenty (20) feet tall at maturity.

**OUTSIDE STORAGE.** All or part of a lot which is used for the keeping of materials, vehicles or products in an open, uncovered yard or in an unwallled building. Such materials may include tractors, backhoes, heavy equipment, construction materials and other similar items.

**OVERLAY DISTRICT.** A defined geographic area where a set of development regulations are established to achieve a specific public purpose. These regulations are in addition to those of the underlying zoning district.

**OWNER.** The owner of record of real property as shown on the tax rolls of the Pierce County Assessor, or a person who is purchasing a piece of property under contract.

**OWNER OCCUPANT.** A property owner, as reflected in title records, that makes his or her legal residence at the site, and actually resides at the site more than six months out of any given year.

**OWNERSHIP.** The existence of legal equitable title to land.

**PACKAGE WASTEWATER TREATMENT PLANT.** A pre-assembled factory built treatment plant.

**PARAPET WALL.** That portion of a vertical building wall that extends above the roof of the building.

**PARCEL.** A lot or plot of land proposed or created in accordance with this Code or prior subdivision ordinance and state law and intended as a unit for the purpose, whether immediate or future, of transfer of ownership. The external boundaries existing as of the date of incorporation of the City of Lakewood shall be used to establish what is a parcel for the purposes of this Code. For parcels which have not been conveyed since that date, the legal description used in the conveyance closest to that date shall control.

**PARKING AREA.** An area accessible to vehicles, which area is provided, improved, maintained, and used for the sole purpose of accommodating a motor vehicle.

**PARKING SPACE.** Any off-street surface area of not less than fifteen (15) feet by eight (8) feet in size, exclusive of maneuvering and access area, permanently reserved for the storage or parking of one (1) vehicle, and connected with an access which affords ingress and egress for vehicles.

**PARKING STRUCTURE.** A building or structure consisting of more than one (1) level, above and/or below ground with one (1) or more common entrances, and used for the parking and/or temporary storage of motor vehicles.

**PARKING, SURFACE.** An off-street, ground level open area, usually improved, for the parking and/or temporary storage of motor vehicles.

**PARKS AND CAMPGROUNDS.** A developed area devoted to overnight temporary use for vacation, and/or recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. Campgrounds shall not include intensively developed commercial uses such as retail stores or gas stations.

**PARTIES OF RECORD.** Persons with legal standing with respect to an application including the applicant, property owner as identified by the records available from the Pierce County assessor's office, or any person who testified at the open record public hearing on the

application and/or; Any person who submitted written comments during administrative review or has submitted written comments concerning the application at the open record public hearing, excluding persons who have only signed petitions or mechanically produced form letters.

**PASSIVE RECREATION.** An outdoor leisure time activity which usually occurs in a natural or designed urban setting. Passive recreation may occur in common open lawn areas and, where determined appropriate, critical area buffers, aquifer recharge and flood water storage areas. Activities may include picnicking, sightseeing, walking, hiking, biking, horseback riding, and nature walks. Accessory structures associated with passive recreation include: Playground equipment, picnic shelters and tables, barbecue pits, exercise stations, restroom facilities, benches, directory signs, garbage containers, and landscaped areas.

**PASSIVE RESTORATION.** The use of natural processes, sequences, and timing which occurs after the removal or reduction of adverse stresses without other specific positive remedial action.

**PATIO.** A recreation area adjoining a dwelling which is often paved or a wood platform of thirty (30) inches or less above finished grade.

**PEDESTRIAN-ORIENTED FACADES.** Facades that feature one (1) or more of the following characteristics:

- a. Transparent window area or window displays along at least half the length of the ground floor facade.
- b. Sculptural, mosaic or bas-relief artwork along at least half the length of the ground floor facade.
- c. Pedestrian-oriented space, as defined below.
- d. Other measures that meet the intent of the criteria, as approved in conjunction with overall design review approval.

**PEDESTRIAN-ORIENTED SPACE.** An area between a building and a public street or another building that promotes visual and pedestrian access onto the site and that provides pedestrian-oriented amenities and landscaping to enhance the public's use of the space. Pedestrian-oriented spaces include but are not limited to outdoor plazas, arcades, courtyards, seating areas, and amphitheaters. Pedestrian-oriented spaces have:

- a. Visual and pedestrian access, including handicapped access, into the site from the public right-of-way.
- b. Special textured paved walking surfaces of either concrete or approved unit paving.

c. On-site or building-mounted lighting providing at least four (4) footcandles (avg.) on the ground.

d. Seating; at least four (4) feet of seating area (bench, ledge, etc.) or one (1) individual seat per sixty (60) square feet of plaza area or open space.

e. Landscaping, including trees and seasonal plantings, that defines the space but does not act as a visual barrier to views from the street or adjacent buildings.

f. Site furniture, artwork or amenities such as fountains, kiosks, etc.

g. Pedestrian weather protection or other enclosure, such as an arcade or gazebo.

Generally, pedestrian-oriented spaces shall not have:

a. Asphalt or gravel pavement.

b. Adjacent unscreened parking lots.

c. Adjacent chain-link fences.

d. Adjacent "blank walls" without "blank wall treatment".

**PEDESTRIAN-ORIENTED USE.** A commercial use whose customers commonly arrive on foot, or where signage, advertising, window display and entryways are oriented toward pedestrian traffic on a public sidewalk. Pedestrian-oriented businesses may include restaurants, retail shops, personal service businesses, travel services, banks (except drive-through windows), and similar establishments.

**PENNANT.** A tapered flag having a distinctive triangular form. (See FLAG and STRING PENNANTS)

**PERFORMANCE STANDARDS.** Criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated by or inherent in uses of land or buildings.

**PERSON.** Any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other person or combination acting as a unit, with legal rights and duties, whether acting by themselves or by a servant, agent, employee, or guardian.

**PERSONAL WIRELESS SERVICE, PERSONAL WIRELESS SERVICE FACILITIES, AND FACILITIES.** (see Wireless Telecommunications Facility).

**PILING.** Wood, concrete or steel posts driven into the bottom in aquatic areas either as mooring devices or to support a dock, float, range marker, or other structure.

**PLAT.** A map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets, and alleys or other division and dedications.

**PLAT, PRELIMINARY.** A neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of the City subdivision regulations and Chapter 58.17 RCW. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

**PLAT, SHORT.** A legally recorded map or drawing which subdivides a parcel of ground into four (4) or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease or transfer of ownership.

**PLAZA.** A pedestrian space that is available for public use and is situated near a main entrance to a building or is clearly visible and accessible from the adjacent right-of-way. Typical features include special paving, landscaping, lighting, seating areas, water features, and art.

**POST OFFICE, BRANCH.** A government operated subdivision of a main post office serving as a base for one (1) or more carrier routes and providing customer postal service.

**POST OFFICE, CONTRACT STATION.** A privately operated, limited-service postal facility carried on as adjunct to a principal business or use.

**PREEMPTED FACILITY.** Any hazardous waste facility defined as a preempted facility in RCW 70.105.010 or in Chapter 173-303 WAC. This may include any facility that includes as a significant part of its activities any of the following hazardous waste operations:

- a. Landfill,
- b. Incineration,
- c. Land treatment,
- d. Surface impoundment to be closed as a landfill, or
- e. Waste pile to be closed as a landfill.

**PRE-EXISTING WIRELESS TELECOMMUNICATIONS FACILITY (WTF).** Any wireless telecommunications facility for which a building permit and/or development permit has been properly issued prior to the date of adoption of this ordinance, including permitted Wireless Telecommunications Facilities (WTFs) that have not yet been constructed, so long as that permit or approval has not expired.

**PRELIMINARY APPROVAL.** An approval, based upon an application and conceptual plan for a Discretionary Land Use Permit, granted by the Director or Examiner which sets forth certain conditions.

**PRESCHOOL.** An establishment providing exclusively educational programs for prekindergarten or preschool children, but excluding daycare uses as specified in LMC 18A.20.400, Use Types and Levels.

**PRINCIPAL USE.** The main use to which the premises are devoted and the principal purpose for which the premises exist.

**PROCESSING OR HANDLING OF A HAZARDOUS SUBSTANCE.** The compounding, treatment, manufacture, synthesis, use or storage of hazardous substances in excess of the following amounts in bulk quantities: five thousand (5,000) pounds of solid hazardous substances, five hundred (500) gallons of liquid hazardous substances, and six hundred fifty (650) cubic feet of gaseous hazardous substances.

**PROJECT ACTION.** Any action taken or activity performed in conjunction with a development or to make a use possible, on a specific site or within a defined geographic area. Project actions do not in and of themselves constitute or result in a specific use. A project action involves a decision on a specific project located in a defined geographic area, such as agency decisions to license, permit, fund, or undertake any activity that will directly modify the environment, whether the activity will be conducted by the agency, an applicant, or under contract, or to purchase, sell, lease, transfer, or exchange natural resources, including publicly owned land, whether or not the environment is directly modified.

**PROJECT PERMIT.** Any land use or environmental permit or license required from the City of Lakewood for a project action, including but not limited to building permits, site development permits, grading or other land preparation permits, subdivisions, binding site plans, conditional uses, shoreline substantial development permits, site plan review, site specific rezones authorized by the comprehensive plan and other discretionary or administrative land use permits or approvals; but excluding adoption or amendment of the comprehensive plan and development regulations, zoning of newly annexed land, area-wide rezones, and zoning map amendments except as otherwise specifically included above in this definition.

**PROPERTY LINE ADJUSTMENT.** The relocation of a common property line between two (2) abutting properties.

**PROPERTY MANAGER.** A person or firm charged with the management of land and buildings as a business including the renting of property, and keeping the premises and buildings in good condition.

**PROVIDER.** A corporation, company, association, joint stock company, firm, partnership, sole-proprietorship, limited liability company, other entity or individual which provides telecommunications services through the use of wireless telecommunications facilities.

**PUBLIC ACCESS.** Public access to shoreline and aquatic areas either may be achieved through

- a. direct physical access to shoreland and aquatic areas (i.e. boat ramps);
- b. aesthetic access (i.e. viewing opportunities); and
- c. other facilities providing some degree of access to shorelands and aquatic areas.

**PUBLIC FACILITIES.** Public facilities include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, storm waste facilities, parks and recreational facilities and schools. Such facilities include, but are not limited to, water supply electric power, gas and transportation of persons or freight.

**PUBLIC GAIN.** The net gain from combined economic, social, and environmental effects which accrue to the public because of a use or activity and its subsequent resulting effects.

**PUBLIC MEETING.** An informal or formal meeting, workshop, or other public gathering of persons to obtain comments from the public or other agencies on a proposed project permit prior to the City's decision, but is not an open record hearing.

**PUBLIC ON-SITE OPEN SPACE.** A space that is accessible to the public at all times, predominantly open above, and designed specifically for use by the general public as opposed to serving merely as a setting for the building.

**PUBLIC OR SEMI-PUBLIC USE.** A structure or use, owned or operated by a state, county, city, school district or other public or private agency or concern for the benefit of the public generally including schools, fire stations, libraries, community building, museums, child care centers, fairgrounds, and churches but does not include specific uses or structures which are defined separately in this section.

**PUMP/LIFT STATION.** The part of a water collection or distribution system that raises water from a lower to a higher elevation.

**QUALIFIED ARCHITECT OR ENGINEER.** An architect or engineer registered in the state of Washington who, by reason of his/her training and experience, is considered qualified to pass judgment on acoustical design, materials, and methods of construction for the attenuation of noise. The qualifications of the architect or engineer relative to acoustical design must be reviewed and found to be acceptable by the building official.

**QUEUING.** Specified area for vehicles awaiting service in a drive-through facility, which may include not only the space between point of ingress and the point of service, but also, where applicable, points of service internal to the drive-through operation. Where a drive-through contains not just one but separate points of ordering, payment, and/or receipt of goods,

queuing is considered to apply in between all three points as well as between the ingress point and initial point of service. "Queuing" may be used interchangeably with "stacking".

**RECIDIVISM.** A condition that results when an offender who has served a period of incarceration is subsequently released from confinement and commits a new crime. As applied herein, a recidivating event is any event that results in the filing of criminal charges in any court of competent jurisdiction; or when an offender is administratively adjudicated and judged to have violated the terms of supervision or confinement in a manner that, had he or she been prosecuted in court, would have been equivalent to a misdemeanor, gross misdemeanor or felony crime in the state of Washington. Administrative adjudications are those conducted by DOC, the Indeterminate Sentence Review Board, their successors or their surrogates. Recidivating events include any criminal conduct including those which occur within the Type 4 Group Home.

**RECORDED.** Unless otherwise stated, filed for record with the Auditor of the County of Pierce, State of Washington.

**RECREATION.** The refreshment of body and mind through forms of play, amusement or relaxation. The recreational experience may be active, such as boating, fishing, and swimming, or may be passive such as enjoying the natural beauty of the shoreline or its wildlife. Facilities included as low-intensity recreation include picnic tables, trail signs, unpaved trails and portable restrooms.

**RECREATIONAL VEHICLE PARK.** A plot of ground upon which two (2) or more recreational vehicles are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreational, education or vacation purposes.

**RECREATIONAL VEHICLE.** A camping trailer, travel trailer, motor home, truck camper, and any similar vehicular-type units primarily designed as temporary living quarters for recreational, camping or travel use, with or without motor power, being of such size and weight as to be operable over highways without requirement of a special highway movement permit.

**RECYCLING CENTER.** A center for the receiving and storage of recyclable materials such as paper, glass and aluminum. The center would receive materials from the general public. This use may involve some outside storage.

**RECYCLING COLLECTION SITE.** A site with collection boxes or other containerized storage where citizens can leave materials for recycling.

**REHABILITATION.** Infrequent, extensive repair of more than routine nature to existing structures or facilities which are in current use or operation.

**RELIGIOUS ASSEMBLY.** An establishment whose principal purpose is religious worship and for which the principal building or other structure contains the sanctuary or principal place of worship, which may include accessory uses in the main building or in separate buildings or structures such as religious educational class rooms, assembly rooms, library or

reading room, recreation hall, and a single dwelling unit for caretaker or clergy and his/her immediate family.

**REMOTE SWITCHING UNIT.** A device or group of devices in a telephone system having the necessary equipment for terminating and interconnecting subscribers' lines, farmer lines, toll lines and inter-facilities trunks, normally dependent on one (1) or more Central Office Switching Units for full operability.

**RENTING OF ROOMS.** The provision of rooms for lodging purposes to no more than two persons in addition to the owner occupied unit, and/or family who lives in the residence.

**REPLAT.** The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

**RESORT.** Any area of land or water used for open land commercial or private recreation where overnight lodging, meals and related tourist services are provided in conjunction with such recreational use.

**RETAIL TRADE.** The sale or rental of goods and merchandise for final use or consumption.

**REVEGETATION.** The planting of vegetation to cover any land areas which have been disturbed during construction.

**RIGHT-OF-WAY.** Land owned, dedicated or conveyed to the public, used primarily for the movement of vehicles, wheelchair, bicycle, and pedestrian traffic. Right-of -way may also include land privately owned, provided that such land has been developed and constructed in compliance with all applicable laws and standards for a public right-of-way.

**RIPARIAN.** Of, pertaining to, or situated on the edge of the bank of a river, stream or other body of water.

**RIPRAP.** A layer, facing, or protective mound of stones randomly placed to prevent erosion, scour or sloughing of a structure or embankment; also, the stone so used. In local usage, the similar use of other hard material, such as concrete rubble, is also frequently included as riprap.

**ROADSIDE STAND.** A temporary structure designed or used for the display or sale of agricultural products primarily produced on the premises upon which such a stand is located.

**ROOM.** Any space in a building enclosed or set apart by a partition or partitions which is habitable and shall be deemed to apply to any room used as a bedroom, a dining room, a living room, a sitting room, a parlor, a kitchen, a sewing room, a library, a den, a music room, a dressing room, a sleeping porch, a sun room, a sun porch, a party room, a recreation room, a breakfast room, a study, and similar uses.

**ROWHOUSE.** A three-story residential structure in which individual dwelling units are attached along at least one (1) common wall to at least two (2) other dwelling unit. Each dwelling unit occupies space from the ground to the roof and no portion of a unit may occupy space above or below another unit, except that townhouse units may be constructed over a common shared parking garage, provided the garage is underground.

**SALVAGE YARD OR JUNKYARD.** A place where waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including, but not limited to, auto and motor vehicle wrecking yards, house wrecking yards, used lumber yards and yards for use of salvaged house wrecking and structural steel materials and equipment.

**SCREENING.** Placement of a wireless telecommunication facility such as a tower or mount among trees or other appropriate vegetation to provide a natural, aesthetic appearance to the location of such wireless telecommunication facility.

**SECONDARY USE.** A use subordinate to the principal or primary use of the property, such as commercial, residential, or industrial uses allowed in each zoning district, etc.

**SECONDHAND DEALER.** Any person engaged, in whole or in part, in the business of buying, selling, trading, or otherwise transferring for value, secondhand or used personal property, metal junk, melted metals, or precious metals and consigned or auctioned goods.

**SECONDHAND PROPERTY/GOODS.** Any and all used or secondhand goods or items of personal property which can be used again for the purpose for which they were originally intended, including, but not limited to, valuable items such as coins with a value greater than their face value, precious metals, precious stones and jewelry.

**SECURITY BARRIER.** A wall, fence, or berm that has the purpose of securing a wireless telecommunications facilities wireless service facility from unauthorized entry or trespass.

**SEPTAGE.** A semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system.

**SERVICE AREAS.** Service areas refer to areas, enclosed or open, that contain equipment and uses such as ground level mechanical equipment, utility vaults, loading zones, outdoor storage areas, and trash and recycling areas.

**SERVICE PROVIDER.** The department, district or agency responsible for providing the specific public facility or service.

**SERVICE USES OR ACTIVITIES.** A business which sells the knowledge or work of its people rather than a tangible product.

**SETBACK.** The minimum required distance, measured from the wall line of any structure and a specified line such as a property line or buffer line that is required to remain free of structures unless otherwise provided in this title.

**SEWAGE SYSTEM, ON-SITE.** Any system of piping, treatment devices, or other facilities that convey, store, treat, or dispose of sewage on the property where it originates or on adjacent or nearby property under control of the user where the system is not connected to a public or approved private sewer system.

**SEWAGE COLLECTION SYSTEM.** Pipelines, culverts, and appurtenances which transport wastewater and sewage from points of origin to wastewater treatment plants, or which convey treated wastewater to points of discharge.

**SHADING VEGETATION.** Vegetation planted on the south side of a major creek that generally provides shade from midmorning to midafternoon. Examples of shading vegetation are specified in LMC 18A.50.400, Landscaping.

**SHED, STORAGE.** A structure in which possessions are kept for future use and which is constructed on the owner's property. The owner may not lease the structure or any portion of the storage area to a second party. The structure shall not be used for any form of commercial production or retail sales activities.

**SHOPPING CENTER.** A retail shopping area designed as a unit, with a minimum of six (6) tenant spaces, and which uses a common parking area.

**SHORELINE.** The boundary between a body of water and the land, measured on tidal waters at the landward limit of aquatic vegetation or, where aquatic vegetation is absent, Mean Higher High Water; and on non-tidal waterways at the ordinary high water mark.

**SHORELINE STABILIZATION.** The protection from erosion and sloughing of the banks of tidal or non-tidal streams, rivers or lakes by vegetative or structural means:

- a. Vegetative shoreline stabilization is the use of lands that anchor the soil to prevent shoreline erosion and sloughing.
- b. Structural shoreline stabilization is the use of riprap, bulkheads, sea walls, or other non-vegetative material to prevent shoreline erosion.

**SIGNIFICANT TREE.** An existing tree which, when measured at four and one-half (4 1/2) feet above ground

- a. has a minimum diameter of nine (9) inches for evergreen trees and deciduous trees;
- b. has a minimum diameter of six (6) inches for Garry Oaks, also known as Oregon White Oaks, and,

c. Regardless of the tree diameter, is determined to be significant by the Community Development Director due to the uniqueness of the species or provision of important wildlife habitat.

**SINGLE FAMILY ATTACHED DWELLING.** A single-family residential structure that is structurally attached to another single-family residential structure and provides living accommodations for an individual or family. Attached dwelling units may be separate structures located on individual lots or on a commonly owned parcel.

**SINGLE FAMILY DETACHED DWELLING.** A residential dwelling unit that is not attached to another residential dwelling unit by any means and provides living accommodations for a single individual or family. Dwelling units shall be separately located, with a maximum of one (1) dwelling unit per individual lot.

**SITE PLANNING.** Site planning is the arrangement of buildings, driveways, sidewalks, public open spaces, landscaping, parking, and other facilities on a specific site.

**SKATING RINK.** A commercial facility wherein the rental of skating equipment occurs and an enclosed skating surface for private or public use is provided.

**SLOPE LINE.** The line perpendicular to the contour lines crossing the property.

**SOIL.** Soil means the surface layer of earth supporting plant life.

**SOLID WASTE INCINERATOR.** The processing of solid wastes by means of pyrolysis, refuse-derived fuel or mass incineration within an enclosed structure. These processes may include the recovery of energy resources from such waste or the conversion of the energy in such wastes to more useful forms or combinations thereof. This definition refers to citywide or regional-scale operations and does not include solid waste incineration which is accessory to an individual principal use.

**SOLID WASTE TRANSFER STATION.** The transfer of solid waste materials from route collection trucks to larger capacity semi-trailers for transport to a solid waste disposal site. The transfer activities would be conducted entirely within an enclosed structure. The use may involve a service area for the repair and maintenance of trucks and an outside parking area for trucks.

**SOLID WASTE.** All wastes, including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof, discarded commodities, sludge from wastewater treatment plants, seepage from septic tanks, wood wastes, dangerous wastes, and problem wastes.

**SOUND ABSORPTION.** Capacity of the materials and furnishings in a habitable room to absorb sound.

**SOUND LEVEL.** In decibels, the quantity measured by an instrument that satisfies American National Standard Specification for Sound Level Meters, S1.4-1971, or the most recent revision thereof. Sound level is understood to be measured with the A-weighted filter and slow response of the instrument.

**SOUND TRANSMISSION CLASS (STC) OF A PARTITION.** A single figure rating of the sound-isolating properties of a partition, which takes into account the relative importance of the sound transmission loss of the partition at different frequencies. The determination of the sound transmission class of a partition is described in "Determination of Sound Transmission Class", American Society for Testing and Materials, Designation E413-73.

**SOUND TRANSMISSION LOSS OF A PARTITION.** A measure of the sound-isolating properties of a wall, floor, ceiling, window or door, that is characteristic of the partition itself and not the room of which it is part. The determination of sound transmission loss of a partition, in the field, is described in "Measurement of Airborne Sound Isolation in Buildings", American Society for Testing and Materials, Designation E336-71 or the latest revision thereof.

**SPORTING VEHICLE.** A motor- or wind-powered device used in or on the water or off normal public roads for recreational or sporting purposes.

**STABILIZATION.** The process of controlling or stilling the movement of sand and eroding soil by natural vegetative growth, planting of grasses and shrubs, or mechanical means such as wire net or fencing.

**STACKING SPACE.** The space specifically designated as a waiting area for vehicles whose occupants will be patronizing a drive-in business. Such space is considered to be located directly alongside a drive-in window, facility or entrance used by patrons and in lanes leading up to and away from the business establishment.

**STORAGE.** The parking of vehicles or machinery and/or the placement of equipment, inventory, goods or materials in a location for more than 72 hours or the use of a site for the parking of vehicles or machinery and/or the placement of equipment, inventory, goods or materials in a reoccurring or routine manner, regardless of the time interval.

**STORMWATER CONVEYANCE FACILITIES.** Features such as gutters, pipelines, culverts, manholes, weirs, man-made and natural channels, water quality filtration systems and drywells that convey stormwater.

**STORMWATER MULTIPLE USE FACILITIES.** Stormwater pond facilities that are also developed to allow uses such as parks, recreational, educational and research structures and activities.

**STORY.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

**STREAMBANK ALTERATION.** Realignment of a stream bank or the entire stream, either within or without its normal high water boundaries.

**STREAM BANK, TOP OF.** That line along the highest elevations at the top of a slope above a channel or stream, where the slope changes to less than ten (10) percent.

**STREET FURNITURE.** The objects placed on or near a sidewalk for use, convenience or enjoyment primarily by pedestrians such as benches or other seating arrangements, trash receptacles, mail and newspaper boxes, kiosks, light poles, and art objects.

**STREET TREE FUND.** A fund established by ordinance for the purpose of allowing the transfer of street improvements including street trees, landscaping and urban design features such as sidewalks and street furniture from one site to another.

**STREET TREE.** A species of tree approved by the City of Lakewood to be planted along street frontages in accordance with the provisions of LMC 18A.50.400, Landscaping.

**STREET WALL.** The construction of buildings adjacent to the edge of the sidewalk and which abut each other or are in very close proximity to one another, to create the effect of a continuous wall of building facades along the sidewalk at the property lines.

**STREET, CUL-DE-SAC.** A street having only one (1) outlet for vehicular traffic, with a turnaround at the closed end and which is not planned to be extended or continued to serve future subdivisions or development on adjacent lands.

**STREET, STUBBED.** A street having only one (1) outlet for vehicular traffic which is constructed to the edge of a property line, and which is to be extended or continued to serve future subdivisions or development on adjacent property.

**STREET.** A public access way located within a thirty (30) feet right-of-way that was created to provide ingress and/or egress to one (1) or more lots, parcels, areas or tracts of land and includes the terms road, highways, lanes, avenue, or similar designation.

**STREETSCAPE.** The streetscape is the visual character and quality of a street as determined by various elements located between the edge of the street and the building face, such as trees and other landscaping, street furniture, lighting, artwork, transit stops, signage, utility fixtures and equipment, and paving treatments. Where there are frequent and wide spaces between buildings, the streetscape will be defined by the pattern of building and open space and the character of that open space.

**STRUCTURAL ALTERATION.** Any change to the supporting members of a building including foundations, bearing walls or partitions, columns, beams, or girders or any structural change in the roof or in the exterior walls.

**STRUCTURE** (used in connection with flood regulations only). A walled and roofed building, a manufactured home, and a gas or liquid storage tank that is principally above ground.

**STRUCTURE.** Anything that is constructed in or on the ground or over water, including any edifice, gas or liquid storage tank, and any piece of work artificially built up or composed of parts and joined together.

**SUBDIVIDER.** Any person who undertakes the subdivision of land for the purpose of ownership or development at any time, whether immediate or future.

**SUBDIVISION.** The act of dividing a parcel or tract of land into smaller lots and tracts.

**SUBDIVISION, FINAL.** The final drawing of the subdivision and dedication prepared for filing for record with the County Auditor and containing all elements and requirements set forth in this Title and Chapter 58.17 RCW.

**SUBSTANTIAL IMPROVEMENT** (for the purposes of flood regulations only). Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

- a. Before the improvement or repair is started, or
- b. If the structure has been damaged and is being restored, before the damage occurred.

Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the building. The term does not, however, include:

- a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
- b. Any alteration of a structure listed on the National Register of Historical Places or a State Inventory of Historic Places.

**SURFACE MINING.** Any area or areas within one-half (1/2) mile of each other, where extraction of minerals from the surface results in: Removal of five thousand (5,000) cubic yards of material; or More than three acres of disturbed area; or Mined Slopes greater than thirty (30) feet high land steeper than one (1) foot horizontal to one (1) foot vertical; or more than one (1) acre of disturbed area within an eight (8) acre or greater area when the disturbed area results from mineral prospecting or exploration activities. Surface mines include areas where mineral extraction from the surface occurs by the auger method or by reworking mine refuse or tailings, when these activities exceed the quantity, size, or height threshold listed above. Surface mining shall not include excavations and grading for the purpose of public safety or restoring the land following a natural disaster.

**SURVEY AND MONUMENT.** To locate and monument the boundaries of a partition parcel, road right-of-way or road easement.

**TELECOMMUNICATIONS SERVICE.** The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

**TELECOMMUNICATIONS.** The transmission, between or among points specified by the user, of information of the user's choosing without change in the form or content of the information as sent and received.

**TEMPORARY USE.** A non-permanent structure, use or activity involving minimal capital investment that does not result in the permanent alteration of the site and which is intended to exist or operate for a limited period of time.

**TOWER [FOR THE PURPOSES OF WIRELESS TELECOMMUNICATIONS FACILITIES (WTF)].** Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas for telecommunications, including, but not limited to, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers or personal communications services towers, alternative tower structures and other similar communication purposes. The term includes the structure, all structural supports, and all related buildings and appurtenances.

**TOWNHOUSE.** A two-story residential structure in which individual dwelling units are attached along at least one (1) common wall to at least two (2) other dwelling units. Each dwelling unit occupies space from the ground to the roof and no portion of a unit may occupy space above or below another unit, except that townhouse units may be constructed over a common shared parking garage, provided the garage is underground.

**TOXIC MATERIALS.** A substance (liquid, solid, or gaseous) which by reason of an inherent deleterious property tends to destroy life or impair health.

**TRACT.** Any parcel of land, lot, building site, or contiguous combination thereof devoted to or intended to be devoted to a principal use and any other uses customarily accessory thereto.

**TRAILER, AUTOMOBILE COMMERCIAL.** A vehicle without motor power designed to be drawn by a motor vehicle and which trailer is used or is to be used for carrying goods and property.

**TRANSFER STATION, DROP-BOX.** A solid waste facility requiring a state solid waste permit which is used for placement of a detachable container including the area adjacent for necessary entrance and exit roads, unloading and turn-around areas. The facility normally serves the general public with loose loads and receives waste from offsite.

**TRANSFER STATION.** A solid waste facility requiring a state solid waste permit which is a permanent, fixed supplemental collection and transportation facility, used by person and route collection vehicles to deposit collected solid waste from offsite into a larger transfer vehicle for transport to a disposal facility. It may include baling or compaction activities or recycling facilities.

**TRANSITIONAL HOUSING.** A facility operated publicly or privately to provide housing for individuals or families who might otherwise be homeless and generally have no other immediate living options available to them. Transitional housing shall not exceed a two (2) year period per individual or family.

**TRANSIT-ORIENTED DEVELOPMENT.** Development that is centered around and coordinated in its use and design with a transit station or other transit facility. Transit-oriented development includes a variety of different planning and development projects, but is typically compact, medium to high density, mixed-use development within walking distance of transit with a focus on pedestrian orientation and creating neighborhood centers, places and/or gathering spots.

**TRANSPARENT GLASS.** Windows that are transparent enough to permit the view of activities within a building from nearby streets, sidewalks and public spaces. Tinting or some coloration is permitted, provided a reasonable level of visibility is achieved. Reflective or very dark tinted glass does not accomplish this objective.

**TREE REMOVAL PERMIT.** An approval granted by the Community Development Department to remove a significant tree(s) within the city.

**TREE.** Any living woody plant characterized by one (1) main trunk and many branches.

**UNIFORM BUILDING CODE (UBC).** The current version of the Uniform Building Code, published by the International Conference of Building Officials.

**UNIQUE AND FRAGILE AREA.** An area of special environmental significance for wildlife habitat, threatened plant communities or natural scenic quality.

**UNLICENSED WIRELESS SERVICES.** Commercial mobile services that operate on public frequencies and are not required to have a FCC license to operate.

**USE CATEGORY.** A group of similar use types that are associated with each other to such an extent that they represent a general land use function.

**USE TYPE.** A group of similar uses that are fundamentally related to each other, contain equivalent characteristics, and which fall within the same use category.

**USE, PERMITTED.** Any use allowed in a zoning district and subject to the restrictions applicable to the specific use.

USE, PRINCIPAL. The primary or predominant use of any lot or parcel.

USE. The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied, maintained, rented, or leased, and includes any manner of performance of such activity with respect to the performance standards of this zoning code. A use often involves the placement of structures or facilities for industry, commerce, habitation, or recreation.

UTILITIES. Public facilities including electrical substation, electrical generation facilities, electrical transmission, telephone or communication lines, pipelines, sewer lines, water lines, natural gas lines, or similar transmission facilities, natural gas gate valve and storage facilities, sewage collection and treatment facilities, waste disposal facilities, waste transfer facilities, and water supply facilities.

UTILITY VEHICLE. A utility vehicle includes those devices capable of being moved upon a public highway and in, upon, or by which any property or animal is or may be transported or drawn upon a public highway such as utility trailers, horse trailers, and other similar devices, except for devices moved by human or animal power or used exclusively upon stationary rails or tracks.

VARIANCE. A modification of regulations of this title when authorized by the hearing examiner after finding that the literal application of the provisions of this title would cause undue and unnecessary hardship in view of certain facts and conditions applying to a specific parcel of property.

VEGETATIVE GROUNDCOVER. Low growing vegetation that does not usually exceed one (1) foot in height and eventually grows together to form a continuous mass.

VETERINARY CLINIC. Any premises to which animals are brought, or where they are temporarily kept, solely for the purpose of diagnosis or treatment, care, observation or treatment of any illness or injury to domestic or exotic animals.

WAREHOUSE. A structure, or part of a structure, for storing goods, wares, and merchandise, whether for the owner of the structure or for others.

WASTE-TO-ENERGY FACILITY, MUNICIPAL SOLID WASTE. A combustion plant specializing in disposal of or energy recovery from mixed waste from municipal sources.

WASTE-TO-ENERGY FACILITY, SPECIAL. A combustion plant designed to burn more than twelve (12) tons per day and specializing in disposal of or energy recovery from a single type of waste of known and consistent composition, other than municipal waste, such as tires or infectious waste.

WASTE-TO-ENERGY FACILITY. Any solid waste facility designed as a combustion plant to dispose of solid waste or to recover energy in a useable form from mass burning, refuse-

derived fuel incineration, pyrolysis or any other means of using the heat of combustion of solid waste which requires a state solid waste permit under RCW 70.95.

**WASTEWATER TRANSFER FACILITY.** Equipment, structures, driving and parking surfaces, and appurtenances used for loading wastewater for transport to wastewater treatment facilities.

**WASTEWATER.** Water that carries waste from domestic, commercial or industrial facilities together with other waters which may inadvertently enter the sewer system through infiltration and inflow.

**WATER PURIFICATION FACILITY.** Treatment plants or facilities for disinfecting water.

**WATER SUPPLY, POTABLE.** A water source that complies with appropriate state agency regulations as to quality and quantity for use as a drinking source.

**WESTERN STATE HOSPITAL CAMPUS.** A hospital and surrounding buildings, wards, and related and/or accessory structures, operated and maintained by the state of Washington for the care and treatment of patients affected with acute or chronic mental illness. The campus also includes the operation of an existing child study and treatment center and forensic center, both of which are located on the grounds of the Western State Hospital campus. Mental health facilities, the child study and treatment center, and the forensic center are subject to the public facilities master plan development standards listed in LMC 18A.30.850 as hereafter may be amended. The mental health facilities located at Western State Hospital are considered to constitute an Essential Public Facilities Civic use type.

**WETLAND CREATION.** Alteration, by excavation or other means, of upland areas to allow local hydrologic conditions to convert soils and vegetation to hydric character.

**WETLAND ENHANCEMENT.** An action which results in a long term improvement of existing wetland functional characteristics and processes that is not the result of a creation or restoration action.

**WETLANDS.** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

**WHIP ANTENNA.** An omnidirectional dipole antenna of cylindrical shape that is no more than six inches in average diameter.

**WHOLESALE.** Establishments primarily engaged in selling merchandise to retailers; industrial, commercial, institutional, or professional business users; or other wholesalers; or acting as agents or brokers and buying for or selling merchandise to such individuals or companies; and professional and commercial equipment suppliers.

**WIRELESS TELECOMMUNICATIONS FACILITIES (WTF), INCLUDING PERSONAL WIRELESS SERVICE.** Personal wireless service facilities, and facilities as defined in Title 47, United States Code, Section 332(c)(7)(C), including all future amendments, and also includes facilities for the transmission and reception of radio or microwave signals used for communication, telecommunication, cellular phone personal communications services, enhanced specialized mobile radio, any other services licensed by the FCC, and any other unlicensed wireless services.

**YARD.** An open area on a lot with a building and bounded on one (1) or more sides by such building, such space being unoccupied land unobstructed from the ground upward.

**YARD SALE.** All temporary and intermittent sales which may be variously referred to as "garage sale," "lawn sale," "attic sale," "rummage sale," "estate sale," or any similar casual sale of tangible personal property from a residence or community use which is advertised by any means whereby the public at large is or can be made aware of the sale, and which is clearly secondary to the primary use of the site.

**YARD, FRONT.** An open space on the same lot with the building, between the front wall line of the building, exclusive of steps, and the front property line, including the full width of the lot to its side line.

**YARD, REAR.** An open space on the same lot with the building between the rear wall line of the building, exclusive of steps and accessory buildings, and the rear line of the lot, including the full width of the lot to its side lines.

**YARD, SIDE.** An open, unoccupied space on a lot, between the side wall line of the main building, exclusive of steps, and the side property line of the lot.

**ZONING CERTIFICATION.** A certificate, issued prior to a project permit, stating that the proposed use is in accordance with the requirements and standards of this title

**ZONING DISTRICT.** An area accurately defined as to boundaries and location, and classified by the Zoning Code as available for certain types of uses and within which other types of uses are excluded.

**ZONING.** The regulation of the use of private lands or the manner of construction related thereto in the interest of implementing the goals and policies of the comprehensive plan. Zoning includes both the division of land into separate and distinct zoning districts, and the specific use and development standards that regulate development. Such regulation shall also govern those public and quasi-public land use and buildings that provide for government activities and proprietary type services for the community benefit, except as prohibited by law. State and federal governmental activities are strongly encouraged to cooperate under these regulations to secure harmonious city development.

ADOPTED by the City Council this 4th day of August, 2014.

CITY OF LAKEWOOD

\_\_\_\_\_  
Don Anderson, Mayor

Attest:

\_\_\_\_\_  
Alice M. Bush, MMC, City Clerk

Approved as to Form:

\_\_\_\_\_  
Heidi A. Wachter City Attorney

DRAFT

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|---|---|
|  | <p><b>PLANNING ADVISORY BOARD<br/>REGULAR MEETING<br/>WEDNESDAY, May 21, 2014<br/>Council Chambers<br/>6000 Main Street SW<br/>Lakewood, WA 98499</b></p> |
|---|---|

**Call to Order**

The meeting was called to order at 6:30 p.m.

**Roll Call**

Planning Advisory Board (PAB) Members Present: Don Daniels, Chair; Bob Zawilski, Jim Taylor, Connie Coleman-Lacadie, Jeff Brown.

PAB Member Excused: Doug Babbit, Paul Calta.

Staff Present: Dave Bugher, Community Development Director; Dan Catron, Principal Planner; Andrea Bell, Assistant Planner.

Council Liaison Present: Mary Moss

**Approval of Minutes:**

Minutes of the meeting held on May 7, 2014, were unanimously approved M/S/C Zawilski/Taylor

**Changes to Agenda** – No changes to agenda however Mr. Bugher will be presenting additional information and handouts regarding joint meeting with City Council to be held on May 27, 2014.

**Public Comments** – None

**Subdivision Code Public Hearing** – Continuance of public hearing from May 7, 2014 regarding Subdivision Code Update LMC Title 17. Jerimiah Lefranca from Master Builders Association thanked the board for the hearing continuance and stated that the City had full support from Master Builder's regarding the update to the Subdivision code. Hearing no further comments, the board took action on the update with a first from Mr. Jeff Brown and a second from Mrs. Connie Coleman-Lacadie.

AYES: Daniels, Zawilski, Taylor, Coleman-Lacadie, Brown

NOES: None

EXCUSED: Babbit, Calta

**Communal Housing Regulations-Public Hearing-** Chairman Daniels opened the public hearing. Public comments were received from Glen Spieth who reviewed the Communal Housing Regulations and believed everything was in reason.

Mr. Zawilski asked Mr. Bugher for a synopsis of the Communal Housing Regulation process if he were to consider hosting two students from Pierce College. Mr. Bugher responded that as long as the homeowner resides in the home, the regulations do not apply. However, if the home owner will not be residing in the residence in which rooms are being rented, there must be compliance with the code.

Upon closure of the hearing, Mr. Bugher addressed Mr. Daniels that there appeared to be a problem with the definition of family as stated in the staff report on page 9 of the ordinance. The correct definition was supposed to match that of Issaquah, WA, which it did not. Mr. Bugher stated the importance of the error being corrected and thus suggested to open the hearing, close the hearing and revisit it at the next meeting when the error is corrected. Mr. Daniels agreed .

**Unfinished Business:** None

**New Business:** None

**Reports from Board Members and Staff:** Mr. Bugher presented handouts for the joint meeting with City Council to take place on May 27, 2014. These handouts touched on the highpoints of the City work plans for part of 2013, 2014 and work to be done in 2015. Mr. Bugher also presented updates regarding the multi-family tax credit program in Springbrook, the update to the City's transportation element, the City's continued work with Habitat for Humanity in Tillicum and the housing forum which took place on April 15, 2014.

Mr. Daniels asked Mr. Bugher for his thoughts on the success of the housing forum and the opportunities it may have opened for the City. Mr. Bugher responded, stating that the forum brought to light the perception issues within the City, especially related to Lakewood's low income housing and populations and recommended that the City could do a better job reporting its statistics. However, all comments and recommendations for improvements were welcomed.

**Mr. Daniels and Mrs. Coleman-Lacadie** inquired about new potential development, such as restaurants, proposed for locations within the Lakewood Town Center. Mr. Bugher replied that potential developers and clients were still exploring options and working with different departments in the City; however, no permits have been officially submitted.

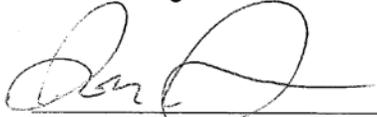
Jim Taylor: Mr. Taylor had a question for Mr. Bugher regarding a demolition that took place at 8311 Orchard St. in Tillicum and wondered if it was part of the

Habitat for Humanity Program. Mr. Bugher responded no, he does not believe it is a property of Habitat for Humanity.

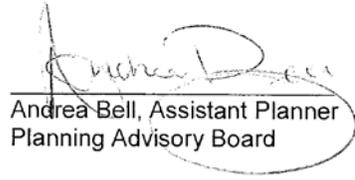
Mr. Bugher informed the board about Curbside Auto who will be moving into Lakewood on South Tacoma Way. City Council is supportive of the project and the City will be receiving a revenue stream from the loan once the project is complete.

**Meeting Adjourned:** 6:54 pm

**Next Meeting:** The next PAB meeting is June 18, 2014



Don Daniels, Chair  
Planning Advisory Board



Andrea Bell, Assistant Planner  
Planning Advisory Board

ORIGINAL

|   |  |
|---|--|
|  | <p><b>PLANNING ADVISORY BOARD<br/>REGULAR MEETING<br/>WEDNESDAY, June 18, 2014<br/>Council Chambers<br/>6000 Main Street SW<br/>Lakewood, WA 98499</b></p> |
|---|--|

**Call to Order**

The meeting was called to order at 6:30 p.m.

**Roll Call**

Planning Advisory Board (PAB) Members Present: Don Daniels, Chair; Bob Zawilski, Connie Coleman-Lacadie, Jeff Brown, Paul Calta.

PAB Member Excused: Doug Babbit, Jim Taylor

Staff Present: Dave Bugher, Community Development Director; Dan Catron, Principal Planner; Andrea Bell, Assistant Planner.

Council Liaison Present: Paul Bocchi

**Approval of Minutes:**

Minutes of the meeting held on May 21, 2014, were unanimously approved M/S/C Zawilski/Taylor

**Changes to Agenda – None**

**Public Comments – None**

**Public Hearing: None**

**Unfinished Business:**

**Communal Housing Regulations:** Dave Bugher provided clarification on the Communal Housing Regulations that were previously brought before the board. The board was encouraged to recommended adoption of these regulations to the City Council but there was an error regarding the definition of the word “family” which has now been corrected and is referenced on page 9 under part C of the regulations. Mr. Bugher explained that no other changes were made and that staff is asking the board to recommend approval to the City Council regarding this matter.

Motion to approve Communal Housing Regulations draft resolution # 2014; M/S/C Brown/Zawilski  
AYES: Daniels, Zawilski, Brown, Calta, Coleman-Lacadie  
NOES: None  
EXCUSED: Babbit, Taylor

**Shoreline Management Plan-** Mr. Catron presented to the board that the Department of Ecology (DOE) has approved the updated SMP with some required and some recommended changes. Most of these changes were clerical in nature. Mr. Catron presented some of these changes to the board in order to provide clarification. He also stated that if the board is in favor of the mentioned changes that staff would recommend that they make a statement on the record that they have reviewed them and they have no objections.

Mr. Zawilski inquired about whether or not the updated SMP would affect Lake Waughop in any way. Mr. Catron replied that he did not believe it would. Mr. Bugher interjected and explained that section G of the updated SMP addressed Waughop Lake.

Mr. Daniels requested clarification on SMP change MM relating to restoration of shoreline vegetation that has been eliminated or degraded. Mr. Catron provided clarification. Mr. Bugher provided additional clarification regarding the change and referenced the example of the Eagle Point Subdivision.

Mr. Brown questioned if grating on docks and piers would not be necessary for American and Gravelly Lake and was interested if the board should address that motion in regards to change JJ. Mr. Daniels inquired with staff if this issue should be addressed separately. Mr. Catron explained that if the board would like to put a statement as such in the record, it could be used in the future to bolster the City's position and that it would in fact be consistent with what staff has already recommended

Mr. Brown motioned to accept the recommendation for the SMP update as presented with the condition that the grated decking not be required for American or Gravelly Lake.

Motion to accept changes and send back to the City Council; M/S/C Brown/Zawilski  
AYES: Daniels, Zawilski, Brown, Calta, Coleman-Lacadie  
NOES: None  
EXCUSED: Babbit, Taylor

**New Business:** None

**Reports from Board Members and Staff:** Dave Bugher discussed the reorganization of the South Sound Military community's partnership to modify the work plan pertaining to sustainability and the future. The board will not be directly involved in this but Mr. Bugher thought it should be brought to the boards' attention. Mr. Bugher also announced the hiring of the City's new administrative assistant, Lisa Sanchez, who will

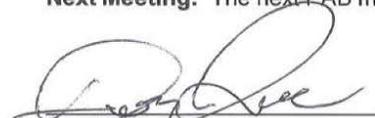
be starting in July 2014. Further discussions also included Mr. Bugher's continuous work on the budget as well as current pending projects within the City and permit flow.

Mr. Daniels inquired about consolidation of the Planning Advisory Board. Mr. Bugher explained that the subject has been discussed and that there is a possibility of it in the future. Mr. Daniels also inquired about the Ruby Drive project and its current status. Mr. Bugher stated that there was currently some monetary issues that were recently resolved and that the demolition permit was pending.

Mr. Brown inquired with Mr. Bugher about the opportunity of new development in the Lakewood Town Center. Mr. Bugher explained that the Community Development Department has approved a two-phased site development permit process for some redevelopment in the town center which will include three new restaurants. He explained that that project continues to move forward but there are currently some issues regarding open space and/or landscaping.

**Meeting Adjourned:** 6:59 pm

**Next Meeting:** The next PAB meeting is **July 16, 2014**

  
Don Daniels, Chair  
Planning Advisory Board

  
Andrea Bell, Assistant Planner  
Planning Advisory Board

**CITY OF LAKEWOOD  
PLANNING ADVISORY BOARD  
RESOLUTION NO. 2014-01**

A RESOLUTION OF THE PLANNING ADVISORY BOARD OF THE CITY OF LAKEWOOD  
RECOMMENDING APPROVAL OF COMMUNAL HOUSING REGULATIONS TO THE CITY'S LAND  
USE & DEVELOPMENT REGULATIONS

WHEREAS, the City of Lakewood incorporated on February 28, 1996; and

WHEREAS, pursuant to Title 36.70A RCW, on July 2000, the City of Lakewood  
adopted the Lakewood Comprehensive plan; and

WHEREAS, on August 21, 2001, the City of Lakewood adopted a Land Use and  
Development Code (Chapter 18A of the Lakewood Municipal Code); and

WHEREAS, there exists the potential that existing single family residences could be  
converted into boarding houses; and

WHEREAS, such conversions, if not properly regulated, can: 1) increase density  
above the limitations set forward in the underlying zoning district; 2) violate construction  
code standards; 3) result in a general decline in property maintenance; 4) increase traffic  
volumes, and speeding in general; and

WHEREAS, draft regulations were promulgated and referred to as the communal  
housing regulations which includes a revised definition for the term "family;" and

WHEREAS, these draft regulations were submitted to the Planning Advisory Board on  
January 15, 2014, and May 21, 2014; and

WHEREAS, the draft regulations were reviewed for compliance with the State  
Environmental Policy Act, and such regulations were deemed not have a significant impact  
on the environment; and

WHEREAS, the Lakewood Planning Advisory Board conducted a Public Hearing on  
May 21, 2014; considered public testimony through the Public Hearing process; and  
deliberated on the proposed regulations.

NOW, THEREFORE, BE IT RESOLVED that the Planning Advisory Board for the City of  
Lakewood does hereby recommend to the Lakewood City Council that Lakewood Municipal  
Code Title 18A should be updated and revised to read as indicated in Exhibit A attached  
hereto.

PASSED and ADOPTED at a regular meeting of the Planning Advisory Board on June  
18, 2014, by the following vote:

AYES: Daniels, Zawilski, Brown, Calta, Coleman-Lacadie

NAES:

ABSENT: Taylor, Babbit

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DON DANIELS, CHAIR  
PLANNING ADVISORY BOARD

ATTEST:

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DAN CATRON, SECRETARY

**EXHIBIT A**  
**Chapter 18A.20**  
**Land Use Types and Levels**

**18A.20.900- Accessory Use Category - Land Use Types and Levels**

The Accessory use category includes those uses which are customarily and routinely found in conjunction with, and which are clearly incidental and secondary to, other listed uses, except as may be specifically limited by use levels otherwise listed herein.

A. Residential Accessory. Uses accessory to a primary permitted residential use or in conjunction with a residential use requiring a discretionary permit, subject to LMC 18A.50.140, Residential Accessory Buildings, and all applicable construction permits.

1. Accessory dwelling unit, subject to the provisions of LMC 18A.70.310.
2. Communal residence(s), subject to the provisions of LMC 18.70.320.
3. Private docks and mooring facilities as regulated by applicable shoreline management regulations.
4. Storage.
  - a. Attached carports or garages for the sole use of occupants of premises and their guests, for storage of personal household goods and motor, recreational, and sporting vehicles.
  - b. Detached carports or garages are allowed in conjunction with an approved access and driveway.
  - c. In addition to attached carports or garages, detached carports, garages, and other accessory buildings and structures such as hobbyist greenhouses and storage buildings for personal household goods and yard maintenance equipment, but excluding accessory dwelling units, are allowed.
5. Outdoor storage of two (2) recreational/sporting/utility vehicles, subject to LMC 18A.50.145, Outdoor Storage of Recreational, Utility and Sporting Vehicles Accessory to Residential Uses.
6. Home occupations and limited home occupations, subject to the provisions of LMC 18A.70.200.
7. Minor maintenance of a vehicle owned by a resident or a relative of a resident of the site on which the activity is performed, where the activity is not performed for pay or the exchange of goods or services, and subject to the provision of LMC 18A.50.155, Vehicle Service and Repair Accessory to Residential Uses.
8. Hobbyist crop or flower gardens which are non-commercial and serve one (1) or more neighborhood homes on an informal, cooperative basis, as distinguished from Outdoor Recreation uses.
9. Civic use types, limited to "pea patch" or community gardens, "tot lots," private parks and open space set-asides. May include private, on-site composting facility with less than ten (10) cubic yards' capacity.
10. On-site underground fuel storage tanks to serve a residential use.
11. Antennae and satellite dishes for private telecommunication services, subject to specific standards, including siting criteria, set forth in LMC 18A.70.600, Wireless Telecommunications Facilities.
12. Decks and patios.
13. Non-commercial recreational facilities and areas, indoor and outdoor, including swimming pools and tennis courts, for exclusive use by residents and guests.
14. On-site soil reclamation in accordance with state regulations.
15. Retaining walls, freestanding walls, and fences.
16. Yard sales.
17. Eating and Drinking Establishment Level 1, limited to ice cream trucks but excluding their storage.

18. Continuation of equestrian uses, which are accessory to a single-family dwelling, already legally existing within the zone at the time of adoption of this title. Maintenance, repair and replacement of existing equestrian structures shall be permitted.

## **Chapter 18A.70 Use-Specific Standards**

### **18A.70.320- Communal Residence(s)**

#### **18A.70.321- Purpose - Communal Residence(s)**

The purpose of the communal residence regulations is to address issues related to rental housing primarily located in single family residential zones. If not properly regulated, this rental practice can increase density above the limitations set forward in the underlying zoning district; result in a general decline in property maintenance; and increase traffic volumes, and traffic and speeding in general.

#### **18A.70.322 - Applicability - Communal Residence(s)**

A. Communal residences are allowed in Single-Family Residential zoning districts upon the issuance of zoning certification, an administrative use permit, or a conditional use permit, and subject to the requirements of this chapter:

1. A Communal Residence housing two (2) or less unrelated individuals is a Process I application type (zoning certification) and subject to all the procedural requirements applicable to this application type.

2. A Communal Residence housing 3 or 4 unrelated individuals is a Process II application type (administrative use permit) and subject to all the procedural requirements applicable to this application type.

3. A Communal Residence housing more than four (4) unrelated individuals is a Process III application type (conditional use permit) and subject to all the procedural requirements applicable to this application type.

4. Applications for a communal residence shall be on the form prescribed by the Community Development Department and shall include all of the information and materials required by the application form.

5. Applications for communal residences shall be filed with the Community Development Department.

#### **18A.70.323- Standards - Communal Residence(s)**

A. Parking Requirements.

1. At a minimum there must be one (1) off-street parking stall per occupant. A owner may reduce the off-street parking requirement if an affidavit is signed that a occupant does not own a vehicle.

B. Solid Waste Management Regulations.

1. All occupied units shall have minimum garbage service as prescribed by the City pursuant to Title 13 LMC.

2. The owner is responsible to provide each occupant with the solid waste connection schedule and that schedule is to be posted within the unit as approved by the City.

C. General Business License Required. A communal residence is deemed a business activity and is subject to the requirements of Chapter 5.02 LMC.

D. International Property Maintenance Code. Pursuant to Title 15A, LMC International Property Maintenance Code occupancy requirements are applicable to a communal residence regardless of the number of individuals living in the residence.

E. Amortization Schedule. Existing communal residences have until December 31, 2015 to become compliant with the regulations outlined in this Title and Title 5 as it pertains to communal residences.

F. Additional Standards. The following additional standards are required to be met for any communal residence over four (4) unrelated individuals excluding Types 1, 2, 3, and 4 Group Homes as defined in LMC 18.20.300, Use Types and Levels; hotels and motels as defined in LMC 18A.90.200; and excluding state-licensed foster homes, in addition to the criteria for a conditional use permit under LMC 18A.10.230.

1. Adequate living space based on the International Property Maintenance Code standards will be taken into account when a request for more than four (4) unrelated individuals is requested.

2. A designated property manager that is available twenty-hour (24) hours a day, seven (7) days a week is required.

3. The request for more than four (4) unrelated individuals will not adversely impact the surrounding community.

4. The applicant must adhere to the provisions of the City's noise control regulations found in LMC 8.36.010.

## **Chapter 18A.90 Definitions**

### **Sections:**

#### **18A.90.100 - Purpose - Definitions**

The purpose of this section is to define words that are used throughout this title. Definitions may also be found in specific sections of this title.

#### **18A.90.200 – Definitions**

COHABITANTS. A group not more than five (5) persons not meeting the definition of "family," living together as a single housekeeping group in a dwelling unit.

COMMUNAL RESIDENCE. A single family dwelling, without an owner occupant, that is rented to a group of unrelated individuals. A communal residence excludes Types 1, 2, 3, and 4 Group Homes as defined in LMC 18.20.300, Use Types and Levels; hotels and motels as defined in LMC 18A.90.200, and excludes state-licensed foster homes.

DWELLING UNIT. One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or communal residence, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure or on the same property, and containing independent cooking, sleeping and sanitary facilities. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. An efficiency apartment, also known as a studio apartment, constitutes a dwelling unit within the meaning of this title.

FAMILY. One (1) or more individuals related by blood or legal familial relationship, or a group of not more than six persons who need not be related by blood or a legal familial relationship, living together in a dwelling unit as a single, nonprofit housekeeping unit,

excluding Types 1, 2, 3, and 4 Group Homes as defined in LMC 18.20.300, Use Types and Levels; and excluding state-licensed foster homes.

A person, or two (2) or more persons related by blood or marriage or law living together as single housekeeping unit in a single dwelling. In addition, the following uses shall be accepted as families pursuant to the requirements of state and/or federal law:

A. Adult family homes licensed pursuant to RCW 70.128.150;

B. Foster homes for the placement of the disabled, or expectant mothers in a residential setting including, but not limited to, foster family homes licensed pursuant to Chapter 74.15 RCW, community group care facilities licensed pursuant to Chapter 74.15 RCW and crisis residential centers pursuant to Chapter 13.32A RCW; and

C. Consensual living arrangements of the disabled protected pursuant to the Federal Fair Housing Act amendments.

Secure community transition facilities, as defined in Chapter 71.09 RCW, are not protected under the definition of "family."

Group Homes, Type 3, 4, and 5, as defined in LMC18A.20.300, Use Types and Levels, are not protected under the definition of "family."

(For unrelated persons residing together, see "Cohabitants.")

FAMILY HOME, FOSTER. An agency which regularly provides care on a twenty-four (24) hour basis to one (1) or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed.

FAMILY MEMBERS. Persons related by blood, marriage or adoption, including foster children.

OCCUPANT. A person, family, group, or organization who is using or living in a particular building, apartment, or room.

OWNER. The owner(s) of fee title, mortgagees, and contract vendees.

OWNER OCCUPIED UNIT. A dwelling unit in which the owner resides at the site more than six months out of any given year.

PROPERTY MANAGER. A person or firm charged with the management of land and buildings as a business including the renting of property, and keeping the premises and buildings in good condition.

RENTING OF ROOMS. The provision of rooms for lodging purposes to no more than two persons in addition to the owner occupied unit, and/or family who lives in the residence.

## **Newspaper Article from the Seattle Times**

Boardinghouse boom raises concerns in Bellevue  
September 30, 2013

There's an increased need for affordable housing in the Northwest, but when single-family homes are turned into boardinghouses, the neighbors aren't happy. Bellevue's City Council is planning to do something about the problem.

By Nancy Bartley Seattle Times staff reporter

Residents of the Spiritwood neighborhood in Bellevue, from left, Sarah Thomson, Barbara Benson and Stephanie Walter, stand in front of a boardinghouse under construction, one of a number of such new homes they oppose in the area of single-family homes.

On a quiet Bellevue street next to 1950s ramblers and ranch-style homes with well-maintained flower gardens, one behemoth of a single-family residence towers over the neighborhood. With its no-frills design and more than 6,500 square feet, it looks like an apartment house instead of a luxury home.

The designer, George Shen, says the house at 1722 144th Ave. S.E., a 15-minute walk from Bellevue College, was built with renting at least some of the seven bedrooms in mind, especially since the college is expanding from a two-year to a four-year school. "It's a typical house," Shen said, "with just a little more room."

And it's in zoning for single-family housing, designated at a time when the word "family" was presumed not to need any clarification. Times, however, have changed. Is a family two adults and two children or four unrelated adults?

Neighbors of the house on 144th Avenue Southeast say the owner and other developers in Bellevue's Spiritwood area have taken advantage of the lack of a family definition in the city's "single-family" zoning ordinance to convert the homes they've bought over the past year or so into boardinghouses.

Qing Shen Song, the owner of the home on 144th, declined to comment on his project. His attorney, Bennett Tse, said Song is one of a large group of investors who have bought rental houses all over the Puget Sound area and California and say they are merely taking advantage of an economic opportunity.

On Sept. 23, the Bellevue City Council took the first steps to curb what officials say is an emerging business model — not just in Bellevue, but in Auburn, Edmonds and Lynnwood, as well as in numerous cities around the country — through an emergency ordinance that limits the number of unrelated adults living in one house to four. It's patterned after an ordinance Auburn recently approved; it also requires homeowners to live at the house if they are going to rent out rooms and limits the rooms rented to two. It does not prevent group homes for the elderly or disabled.

Bellevue is now working on a permanent ordinance. The first public hearing is scheduled for Nov. 4.

The increased need for affordable housing in the Northwest has brought a variety of ways to meet that need. Renters take on an entire house and sublet rooms without the owners' knowledge. Homeowners rent rooms to several roommates to meet the mortgage. Review Craigslist ads and you'll find a Redmond couple looking for five roommates, at \$700 a room, to help pay the mortgage. An Edmonds woman is looking for a third roommate to pay \$650 a room in the house she rents near Edmonds Community College — parking not included. And someone in Lynnwood is renting rooms in one house for \$600 each.

Seattle has licensed boardinghouses that provide affordable places for people on small incomes. These places meet building codes and provide a safe environment, which makeshift boardinghouses might not.

In neighborhoods where single-family homes end up being converted to boardinghouses, neighbors complain about yards not being kept up, trash collecting, rats and traffic. Some of

the homes that developers bought in Spiritwood appear run down and have unkempt yards, a contrast with the rest of the neighborhood.

Tse said there has not been a single complaint about the behavior of the tenants who live in the rental houses so the number of renters should not be an issue. Nevertheless, he said the investors agreed they would comply with the ordinance and limit the number of renters. But "it only hurts the renters because there are fewer units available and the rents will be higher," he said.

#### College connection

Nationwide, using single-family homes as boardinghouses is a problem, especially whenever there is a college nearby, said Bellevue City Councilmember Kevin Wallace.

"For years, Bellevue has carefully protected the character of the neighborhoods ... so here are these investors looking to skirt the zoning. ... We've had multiple complaints," Wallace said. "This is not the first time I've noticed it happening, but not on this scale."

For Barbara Benson, Stephanie Walter and others who have lived in the Spiritwood neighborhood for decades, City Council action can't happen fast enough. Developers, including Song, have now bought six properties in the area.

The neighborhood shift began innocently enough with Benson, a friendly woman who started a conversation across the fence with Song, who appeared to be a new neighbor.

He was working in the yard of a house at 1718 144th S.E., which he had purchased. He and his wife were moving to the neighborhood. They had a pregnant daughter who wanted a house, too. Did Benson know of others in the neighborhood that might be for sale? "We were thrilled" at the prospect of new neighbors, Benson said, and showed him a rambler at 1613 144th S.E., a block from hers. He didn't purchase it, but Blue Sky Equities bought it from Dakoda Rooney for \$340,000 cash without an inspection.

Then Song told Benson he wanted housing for his nephews. Benson showed him another nearby house at 14424 S.E. 17th St. In June, C & S Real Estate, owned by Song's daughter, Cindy Song, purchased the house for \$300,000 cash, again without an inspection. On Aug. 13, Cindy Song filed for a permit to demolish the home. Tse said what will be built on the site will "be much better than what's there."

Neither Song, his daughter or nephews moved into the houses that he said were being bought for them, neighbors say.

Shen insists the new house he designed will be Song's home, although he said the proximity to the college was why the house was built.

The house has seven bedrooms, eight bathrooms, two studies, a great room, two rec rooms, a family room, a den and an unfinished basement with another 2,654 square feet of space and a garage that can park six cars.

It had two kitchens, but Bellevue's single-family home building code allows for only one. So one kitchen was removed from the plan.

#### Eight bedrooms

The rambler Benson first showed her neighbor is an illustration of what went wrong in the neighborhood, city officials say.

When Rooney lived at 1613 144th S.E., it had three bedrooms. Rooney visited her old home in August when she returned to the area for a wedding. A construction worker was outside the home and asked her if she was from the city. When she said no, one of the renters invited her in. She said she was stunned. The house was unrecognizable. It had been chopped into eight small bedrooms filled with blankets and air mattresses, she said.

Blue Sky obtained a remodel permit to build an addition to the home, convert the garage to heated storage space and remodel the bathroom. But Bellevue issued a stop-work order after other remodeling without a permit was discovered.

In late August, the city found the property to have six bedrooms and to be in compliance with the code. The garage had been converted to a heated storage space and was not being used as a bedroom, putting the home in compliance, according to the city's code.

Under Bellevue's emergency ordinance there are no penalties for operating a boardinghouse in a single-family home until July 2014, when a permanent ordinance will go into effect, say city officials. In the meantime, an ample supply of needy renters is a tempting incentive for developers.

Neighborhoods do change over time, said Councilmember John Chelminiak. And affordable housing is a need.

"That's something we'll have to address. How do you make redevelopment occur so the neighborhood feels comfortable with it?"

## **E-mail from Narva Walton through Catherine Rudolph, TPCAR**

From: Narva Walton [mailto:narvashothomes@hotmail.com]  
Sent: Monday, May 12, 2014 1:48 PM  
To: Catherine Rudolph  
Subject: RE: Changes to Lakewood's Zoning Regulations

Catherine,

Many of the Colleges in the county seek homes to place exchange students and I have participated as a host family and am aware of some homes for Pierce College that host more than two students at a time. Sometimes because the lack of available host families. I'm also aware of some homes that have rented out their basements (setup as separate housing to the main family) to two or more students. TCC and other area colleges also have host student/family programs that appear to be impacted by the language as it is below. Does there need to be some additional language to "for lodging purposes" to permit additional student "housing" for these college students/host families (see red type added)?

RENTING OF ROOMS. The provision of rooms for lodging purposes to no more than two persons in addition to the owner occupied unit, and/or family who lives in the residence; Except where the housing is related to providing residence to students participating in a host family setting while studying as part of a college supervised program.

Narva C. Walton ABR, CNE, GRI, MBA  
Managing Broker  
John L. Scott Real Estate  
253-209-6494 Cell

2011-2013 National Executive Committee, Women's Council of REALTORS  
2010 Tacoma-Pierce County Association of REALTORS, Director  
2009 Washington State Governor, Women's Council of REALTORS  
2008 Washington State President, Women's Council of REALTORS  
2008 Washington REALTORS, Director



**TO:** Mayor and City Council

**FROM:** M. David Bugher, Assistant City Manager / Community Development Director

**THROUGH:** John Caulfield, City Manager 

**MEETING DATE:** July 22, 2014

**SUBJECT:** Calculation of Industrial Warehouse Building Permit and Plan Review Fees

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**Background:** This memorandum is a follow-up to the memorandum provided to the City Council on June 4<sup>th</sup> regarding building permit fees for industrial warehousing.

To explain the permit fee structure, it is necessary to review how fees are determined. For Lakewood, industrial warehouse buildings go through a two-step permit procedure:

- Step I determines fees for the Initial Permit/Shell Building<sup>1</sup>.
- Step II determines fees for a subsequent Tenant Improvement<sup>2</sup>.

Some cities and counties also use this two-step process; however, administrative procedures are different which results in varying charges. Still other cities and counties charge for both Shell and Tenant Improvements at the very beginning of the project in Step I.

Here's how Lakewood's fees are set:

### **Step I (Initial Permit/Shell Building)**

1. Plan check and building permit fees are based on Lakewood's Master Fee Schedule, and the 2012 International Building Code (IBC), Sections 109.2 and 109.3, which the City has previously adopted by resolution and ordinance, respectively. Section 109.2 lists permit fee schedules. Section 109.3 addresses building permit valuations. The

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<sup>1</sup> A shell building is the building envelope.

<sup>2</sup> Tenant Improvements refer to work done on the interior of a commercial or industrial building space; can be paid for by the landlord, the tenant, or some combination of both, depending on the terms of the lease.

process in place is intended to provide jurisdictions with a simplified way to determine the estimated value of a building that does not rely on the permit applicant to determine the cost of construction. Fees are based on “average” construction costs per square foot although the fee structure is designed to reflect relative value of one construction classification/occupancy group to another so that more expensive construction is assessed greater permit fees than less expensive construction.

2. The process to determine the fee amount is to first set building valuation. For Lakewood, the building valuation for an industrial warehouse is \$78.43 Per Square Foot (PSF). The PSF number is multiplied by the square footage of the proposed building.
3. A valuation number is obtained and compared against a standardized chart which determines the building permit fee.
4. Once the building permit fee is set, the plan check fee is determined which is 65% of the building permit fee.
5. Because this is an Initial Permit/Shell Building, Lakewood reduces the building permit fee and the plan check fee by 20%, respectively.
6. Project applicant pays fees; City begins plan review process.
7. Initial Permit/Shell Building permit is issued, construction commences and is completed. City issues final occupancy permit.

## **Step II (Tenant Improvement Permit)**

1. Project applicant has a completed the shell building, but lacks interior improvements. Structure remains in this condition until a tenant is found, and a lease is executed.
2. Project applicant submits a Tenant Improvement Permit.
3. Lakewood staff processes the Tenant Improvement Permit. The project applicant is charged a second building permit fee and plan check fee equal to the 20% deferral offered in Phase I.
4. Project applicant pays fees; City begins plan review process.
5. Upon completion of the plan review process, the Tenant Improvement Permit is issued, construction commences and is completed. City issues final occupancy permit.

Enclosed are two tables which outline the plan check and building permit fees for the two industrial warehouse projects located in the Lakewood Industrial Park. The tables also compares Lakewood’s fees against those of Tacoma, Pierce County, and Sumner. These

fees are for plan check and building permit fees only; they DO NOT include impact fees, user fees, utility connection charges, plumbing, mechanical, and electrical permit fees.

Table 1 illustrates the plan check and building permit fees for the construction of a 136,300 square foot industrial warehouse building.

| TABLE 1       |   |                 |             |                               |                 |             |                    |
|---------------|---|-----------------|-------------|-------------------------------|-----------------|-------------|--------------------|
|               | Step I<br>Initial Permit/Shell Building |                 |             | Step II<br>Tenant Improvement |                 |             |                    |
| Agency        | Plan Check                              | Building Permit | Sub-Total   | Plan Check                    | Building Permit | Sub-Total   | Totals             |
| Lakewood      | \$28,056.20                             | \$43,163.38     | \$71,219.58 | \$8,256.06                    | \$12,701.63     | \$20,957.69 | <b>\$92,177.27</b> |
| Tacoma        | \$30,913.02                             | \$47,558.49     | \$78,471.51 | \$20,073.96                   | \$30,883.02     | \$50,956.98 | \$129,428.49       |
| Pierce County | \$39,242.61                             | \$60,373.25     | \$99,615.86 | \$0.00                        | \$0.00          | \$0.00      | \$99,615.86        |
| Sumner        | \$19,887.82                             | \$30,596.65     | \$50,484.47 | \$5,928.03                    | \$9,120.05      | \$15,048.08 | \$65,532.55        |

Table 2 illustrates the plan check and building permit fees for the construction of a 268,300 square foot industrial warehouse building.

| TABLE 2       |   |                 |              |                               |                 |             |                     |
|---------------|---|-----------------|--------------|-------------------------------|-----------------|-------------|---------------------|
|               | Step I<br>Initial Permit/Shell Building |                 |              | Step II<br>Tenant Improvement |                 |             |                     |
| Agency        | Plan Check                              | Building Permit | Sub-Total    | Plan Check                    | Building Permit | Sub-Total   | Totals              |
| Lakewood      | \$53,626.87                             | \$82,502.88     | \$136,129.75 | \$14,650.27                   | \$22,538.88     | \$37,189.15 | <b>\$173,318.90</b> |
| Tacoma        | \$58,915.45                             | \$90,639.15     | \$149,554.60 | \$37,576.40                   | \$57,809.85     | \$95,386.25 | \$244,940.85        |
| Pierce County | \$76,765.65                             | \$118,101.00    | \$194,866.65 | \$0.00                        | \$0.00          | \$0.00      | \$194,866.65        |
| Sumner        | \$37,914.08                             | \$58,329.35     | \$96,243.43  | \$10,433.41                   | \$16,051.40     | \$26,484.81 | \$122,728.24        |

Please note that Pierce County does not have a Phase II process. That means the full cost of the permit, both shell and tenant improvements, are charged at the very beginning of the project. Kent and Puyallup compute industrial warehouse plan review and plan check fees the same way as Pierce County.

**Summary:** Staff would point out that the data comparison pool was small – that’s because it was difficult to obtain information from surrounding municipalities and counties. Lakewood’s fees are significantly less than Tacoma, and slightly less than Pierce County. Lakewood, like Tacoma and Sumner, defers the full cost of the permits to the first tenant improvement. Sumner’s fees were the lowest because their PSF charge is set at \$59.95.