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**5-11-06 draft modified to address some of Ecology's comments**

## Chapter 6 General Policies and Regulations

*Draft modified in May 2006 to address public and Planning Commission comments, and further modified after that time to address Department of Ecology Comments on the May draft. Changes with no dates or explanation are discussed in the 6-1-06 "Response to Comments." Changes made after that point include the date the change was made and the reason for the change.*

### **6-1** Introduction

The General Policies and Regulations apply to all uses and activities within shoreline areas, regardless of the Shoreline Environment Designation. (See Chapter 9 for an explanation of Shoreline Environment Designations.) They are intended to be used in conjunction with the more specific use and activity regulations in Chapters 7 and 8 of the Moses Lake SMP, as well as the Shoreline-Environment specific policies and regulations in Chapter 9. General Policies and Regulations cover the following areas:

- [Section 6-10](#) Overall Development Policies (policies only)
- [Section 6-20](#) Archaeological and Historic Resources
- [Section 6-30](#) Critical Areas
  - [Section 6-30-010](#) General
  - [Section 6-30-020](#) Aquifer recharge areas
  - [Section 6-30-030](#) Fish and wildlife habitat conservation areas
  - [Section 6-30-040](#) Frequently flooded areas
  - [Section 6-30-050](#) Geologically hazardous areas
  - [Section 6-30-060](#) Wetlands
- [Section 6-40](#) Economic Development (policies only)
- [Section 6-50](#) Environmental Impacts and Water Quality
- [Section 6-60](#) Parking
- [Section 6-70](#) Public Access
- [Section 6-80](#) Signage
- [Section 6-90](#) Subdivision and Property Segregation
- [Section 6-100](#) Utilities (Accessory)

## General Policies and Regulations

### **6-10** Overall Development Policies

The following policies apply to all shoreline areas in the City of Moses Lake.

1. Development should be permitted only in those areas that are capable of supporting the proposed use or activity without net loss of shoreline ecological functions. [Impacts to shoreline natural character, resources, and ecology should be avoided when possible, minimized when the impacts are unavoidable, and any remaining impacts should be mitigated. \[Ecology 8-20-06\]](#)
2. Permitted uses and activities should be located, sited, designed, managed, and maintained to be compatible with the shoreline environment and to prevent degradation of shoreline ecological [\[Ecology, 10-31-06: Shoreline Management Act requires protection of all shoreline resources, not just ecological\]](#) resources, including the following:
  - a. Water quality;
  - b. Visual, cultural and historic characteristics;

- c. Physical resources (including soils);
  - d. Biological resources (including ~~vegetative cover~~upland, riparian, and aquatic plant communities [Ecology 8-20-06], wildlife, and aquatic life);
  - e. Ecological processes and functions; and
  - f. The natural character of the shoreline area, including ecological function and aesthetics [Ecology 8-20-06].
3. Any use or activity that cannot be designed and managed to prevent degradation of shoreline ecological resources and to protect the integrity of the shoreline environment should be prohibited. ~~Exceptions may be made for projects specifically designed to enhance or protect fish or wildlife or their habitat. [Ecology 8-20-06. Second sentence deleted because it conflicts with first sentence]~~
  4. Development standards, including densities and minimum frontage standards, should be established to ensure that new development results in no net loss of shoreline ecological functions. Criteria considered in establishing those standards should include, but need not be limited to, the following:
    - a. Biophysical limitations and ecological functions and values of the shoreline area;
    - b. Surrounding development characteristics and land division pattern;
    - c. Level of infrastructure and services available or planned;
    - d. ~~Other comprehensive planning considerations~~Comprehensive Plan designation and zoning [8-25-06].
  5. The ecosystem-wide impacts of a large development, including the cumulative impacts of exempt uses and activities within the development over time, should be considered in approving, conditionally approving, or denying shoreline permits for multi-lot subdivisions and other large developments.
  6. New uses and activities should be restricted to those that will not require extensive alteration of the land-water interface. Construction of shoreline stabilization works should be minimized. New uses and activities should be designed to preclude the need for such works.
  7. Uses and activities should be compatible with existing conforming and planned uses on surrounding sites and in adjacent environments.
  8. Public access and public recreation objectives should be implemented whenever feasible when significant adverse impacts can be mitigated. However, preservation of resources should have priority over public access, recreation, and development objectives whenever a conflict exists.
  9. Regulations designed to enhance ecological functions over time should be established for uses and activities (including both development and redevelopment) in the Water-Oriented Parks and Public Facilities environment, the Shoreline Residential—Dunes environment, and all Resource Environments. Specifically, those regulations should address vegetation management, critical areas, and water quality; and should include development standards for shoreline modifications.

9-10. To allow usable space around buildings, provide a yard area, allow for building construction and maintenance, and prevent impacts on shoreline buffers, all buildings and structures required to have a buffer from the shoreline should be set back from that buffer. Shoreline buffer widths and the setback from the shoreline should be listed in the tables in Chapter 9, except that setbacks and buffers required for critical areas later in this chapter supercede the general setbacks and buffers.

## **6-20. Archaeological and Historic Resources**

6-20-010. The following policies and regulations apply to all “Historical/Archeology Areas” identified in the *Shoreline Inventory and Characterization* and on all sites within shoreline jurisdiction having archaeological or historic resources that are recorded at the Washington Department of Archaeology and Historic Preservation (DAHP) and/or with local jurisdictions, including the City of Moses Lake, Grant County, and affected Indian tribes; or that have been inadvertently uncovered.

### 6-20-020. Policies

1. Due to the limited and irreplaceable nature of archaeological and historic resources, all uses and activities (public and private) should be prevented from destroying or damaging any site that has significant historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes. Where feasible, such sites should be permanently preserved for scientific study and public observation.
2. Since state law requires protection of archaeological and historic resources, sites within the City containing such resources should be identified to avoid damage to the resources and the delay and expense associated with discovery of resources during development.
3. For sites [with a high probability of containing in areas documented to contain](#) archaeological and historic resources, a site inspection and evaluation by a cultural resource management professional should be required before issuance of any permits or exemptions.
4. Where practical, access to identified historic or archaeological sites should be made available to the public. Such public access should be designed and managed to protect the resources.

### 6-20-030. Regulations

1. Archaeological sites are subject to the National Historic Preservation Act, as amended (16USC470), RCW 27.44 (Indian Graves and Records), RCW 27.53 (Archaeological Sites and Resources), and WAC 25-48 (Archaeological Excavation and Removal Permit).
2. An evaluation and a report meeting the minimal reporting standards of DAHP, prepared by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61, shall be required before the start of any ground disturbance work in any area known to contain archaeological or historic resources. The City may require such an evaluation prior to the issuance of any shoreline permit or shoreline exemption.
3. All shoreline permits shall contain provisions that require immediate stoppage of work and notification of the City, the DAHP, and the Colville Confederated Tribes if anything of possible archaeological interest is uncovered during excavation or other development. Before work can resume, all requirements of the DAHP must be met.
4. Archaeological excavations may be permitted subject to the provisions of this master program.
5. [Subdivisions and commercial development shall submit a site inspection and evaluation by a cultural resource management professional as part of the application submittal for a shoreline permit or exemption, unless determined unnecessary by the Washington State Department of Archaeology and Historic Preservation. \[Ecology 8-20-06\]](#)

## **6-30. Critical Areas (within shoreline jurisdiction)**

6-30-010. As defined in RCW 36.70A, critical areas include wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas. Critical areas are those areas with especially fragile biophysical characteristics and/or with significant environmental resources. Critical areas include both natural resource areas that benefit the public welfare through the functions they provide, and areas that may threaten the health and safety of the public.

This section includes general provisions that apply to all critical areas within shoreline jurisdiction, and provisions specific to each of the five types of critical areas.

### **6-30-020. General Provisions**

#### 6-30-020-A. Policies

1. Critical areas should be managed to protect against adverse effects to public health and safety and against any loss of shoreline ecological function, including adverse effects on the land and its

vegetation and wildlife, and the water and its aquatic life.

2. Development standards in shoreline critical areas should be consistent with the City's standards for development in critical areas throughout the city when consistency with said standards is sufficient to ensure no net loss of shoreline ecological functions.
3. Incompatible uses should not be allowed in critical areas. Uses that are incompatible may vary for different types of critical areas.
4. Unique, rare, and fragile natural and man-made features as well as scenic vistas and valuable wildlife habitats should be preserved and protected from ~~unnecessary~~ [\[Ecology 8-20-06\]](#) degradation or interference.
5. Areas with unique and/or fragile geological or biological characteristics, such as wetlands and dunes, which would be damaged by certain kinds of public access, should be protected from such access.
6. Shorelines that are identified as hazardous for or sensitive to development should not be used for intensive development.
7. [Regulations for critical areas should protect existing ecological functions and ecosystem-wide processes and restore degraded ecological functions and ecosystem-wide processes. \[added 6-19-07; required by WAC 173-26-221\(2\)\(b\)\(iv\)\]](#)

#### **6-30-020-B. Regulations**

1. All shoreline development shall be designed in accordance with all applicable federal, state, and local regulations, including the Federal Emergency Management Agency (FEMA) flood control management codes and regulations, the State Environmental Policy Act (SEPA), and the Moses Lake Municipal Code (MLMC). ~~MLMC Title 19 deals specifically with critical areas (including wetlands) and~~ [\[Ecology, 10-31-06: MLMC Title 19 does not meet the requirements of the Shoreline Management Act and will not apply to critical areas within shoreline jurisdiction, as the regulations within the Master Program supercede any other critical area regulations\]](#). MLMC 18.53 addresses flood hazard areas [and is adopted by reference. See Appendix YYY \[Ecology 8-20-06: need to include as an appendix\]](#).
2. All shoreline uses and activities shall be located, designed, constructed, managed, and maintained to protect critical areas and the shoreline ecological processes that depend on them.
3. When a development site includes critical areas, those areas shall be left intact and maintained as open space, ~~unless alteration of the critical area and its functions is otherwise mitigated.~~ [\[Ecology, 8-20-06, objected to this provision as they felt it allows impacts which cannot be mitigated\], Limited/Minimized, mitigated alteration of the critical area may be allowed/authorized when the alteration is vital to the project's success only if all reasonable use would be otherwise precluded and the mitigation sequence listed below is followed. \[12-18-06: new language added to try to address Ecology's concerns. 12-15-09 language modified with Ecology's input\]](#)
  - a. Where critical areas are left intact, all development shall be set back from those areas to prevent hazardous conditions and property damage, as well as to protect shoreline ecological functions and other valuable shoreline features. Unless otherwise provided, buildings and other structures shall be set back a distance of fifteen (15) feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following may be allowed in the building setback area:
    - i. Landscaping;
    - ii. Uncovered decks;
    - iii. Building overhangs, if such overhangs do not extend more than eighteen (18) inches into the setback area; and
    - iv. Impervious ground surfaces, such as driveways and patios, ~~provided that such improvements may be subject to local water quality regulations.~~
  - b. ~~Where critical areas impacts are mitigated, the type of mitigation that will have the least impact~~

~~on-shoreline ecological functions shall be preferred~~ Projects containing critical areas shall include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with applicable regulations. The mitigation sequence in WAC 173-26-201(2)(e) shall be used. Mitigation measures shall be applied in the following sequence of steps listed in order of priority, with (i) of this subsection being top priority, ~~are listed below in order of descending preference, and shall be considered in the following sequence:~~ [Ecology 8-20-06]

- i. Avoiding the impact altogether by not taking a certain action or parts of an action;
- ii. 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;
- iii. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- iv. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
- v. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments in compliance with Chapter 11, Shoreline Protection and Restoration [Ecology, 8-20-06: Need to specify a "receiving area" for enhancement, based on the Shoreline Inventory and Characterization]; and/or
- vi. Monitoring the impact and taking appropriate corrective measures. Monitoring and contingency actions shall be specified as conditions in the shoreline permit or exemption for the project. The proponent shall guarantee the monitoring and contingency actions with a performance bond or other surety acceptable to the City Attorney. [Ecology 10-31-06]

#### 4.c. Reasonable Use Exception

4.i. The standards and regulations of this chapter are not intended, and shall not be construed or applied in a manner, to deny all reasonable economic use of private property. A property is deprived of all reasonable use when the owner can realize no reasonable return on the property or make any productive use of the property. "No reasonable return" does not mean a reduction in value of the land, or a lack of profit on the purchase and sale of the property, but rather, where there can be no beneficial use of the property; and which is attributable to the implementation of the critical area regulations.

4.ii. If an applicant demonstrates to the satisfaction of the City of Moses Lake that strict application of these standards and the utilization of cluster techniques, planned unit development, and transfer of development rights would deny all reasonable economic use of its property, development may be permitted subject to appropriate conditions, as determined by the Hearing Examiner.

4.iii. An application for a reasonable use exemption shall include the following:

4.(a) Application form, signed by the property owner.

4.(b) Fee (need to set amount)

4.(c) SEPA Environmental Checklist and fee, if applicable.

4.(d) A written statement demonstrating the following:

4.(1) That no reasonable use with less impact on the critical area and buffer or setback is feasible and reasonable; and

4.(2) That there is no feasible and reasonable on-site alternative to the activities proposed, considering possible changes in the site layout, reduction in density and similar factors; and

4.(3) That the proposed activities, as conditioned, will result in the minimum

possible impacts to critical area and buffer or setback; and

4.(4) That all reasonable mitigation measures have been implemented or assured; and

4.(5) That all provisions of the city's regulations allowing density transfer on-site and off-site have been considered; and

4.(6) That the inability to derive reasonable economic use is not the result of the applicant's actions; and

4.(7) That the inability to derive reasonable economic use is not the result of dividing or segregating the property and creating the undevelopable condition after the effective date of this ordinance.

iv. Any authorized alteration of a critical area under this chapter shall be subject to conditions established by the City and shall require mitigation under an approved mitigation plan.

19.4. Required critical areas reports, including site analyses, hydrogeologic assessments, habitat assessments, habitat management plans, geotechnical reports, geologic hazard plans, but not including wetland analysis reports, and compensatory mitigation reports, shall, at a minimum, include the following. The requirements for wetland analysis reports, and compensatory mitigation reports are listed in the wetlands section below. ~~[Ecology, 8-20-06: The Master Program should provide more specific protective measures that are less expensive and more predictable than requiring critical area reports in all cases. City staff has requested more information about how to use the existing inventory information to designate critical areas and eliminate the need for individual property owners to submit critical area reports]~~

- a. Applicant's name and contact information; all local, state, federal, and/or tribal critical-areas-related permits required for the project, and description of the proposal;
- b. A copy of the site plan for the development proposal, drawn to scale, including a vicinity map and showing:
  - i. Identified critical areas and the development proposal with dimensions;
  - ii. Limits of any areas to be cleared; and
  - iii. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
- c. The names, contact information, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
- d. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area;
- e. An assessment of the probable cumulative impacts to critical areas and buffers resulting from the proposed development of the site;
- f. An analysis of site development alternatives;
- g. A description of reasonable efforts made to apply mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas;
- h. A mitigation plan, as needed, in accordance with the mitigation requirements of this chapter, including, but not limited to:
  - i. The impacts of any proposed development within or adjacent to a critical area; and
  - ii. The impacts of any proposed alteration of a critical area on the development proposal, other properties and the environment;
- i. A discussion of the performance standards applicable to the critical areas and proposed

- activity;
- j. Financial guarantees to ensure compliance; and
  - k. Any additional information required for specific critical areas as listed in subsequent sections of this chapter.

20.5. In case of differences between the Master Program and other provisions of the Moses Lake Municipal Code, the more restrictive requirements shall apply.

6-30-030. Critical Areas: Aquifer Recharge Areas [[Ecology, 8-20-06: This section will be forwarded to Ecology's Water Quality Program for review](#)][OK 12-10-09]

6-30-030-A. Aquifer Recharge Areas are areas with a critical recharging effect on aquifers used for potable waters. They are highly vulnerable to contamination from intensive land uses.

Note that Aquifer Recharge Areas are a type of Critical Area, so the General Provisions and Regulations for Critical Areas also apply. [clarification added 12-15-09]

6-30-030-B. Policies

- 1. Development in shoreline aquifer-recharge areas should not contribute contaminants or facilitate degradation of aquifers, either within or beyond shoreline areas.

6-30-030-C. Regulations

- 1. All uses and activities in shoreline areas, including individual single-family residences, shall be subject to the Aquifer Recharge Area provisions of this section.
- 2. Discharge in to the groundwater of the city shall not contribute contaminants or facilitate degradation of aquifers. Development approvals shall ensure that all best management practices are employed to avoid contributing pollutants to aquifers. Where warranted, based on the findings of a site analysis or hydrogeologic assessment, complete collection and disposal of stormwater may be required. The *Stormwater Management Manual for Eastern Washington* (Washington Department of Ecology Publication 04-10-076, or as revised) shall provide the preferred guidance for stormwater best management practices.
- 3. A site analysis shall be required when any use or activity is proposed in an area in which, based on the findings of the *Shoreline Inventory and Characterization*, runoff or infiltration is likely to recharge an aquifer. The site analysis shall use scientifically valid methods and studies to establish existing (baseline) water quality and shall be used to develop conditions of approval to ensure that the proposed development will not contribute contaminants or facilitate degradation of recharge areas. The site analysis shall be based on the following items:
  - a. Available information about regional groundwater hydrology
  - b. Detailed information about
    - i. Hydrogeologic susceptibility to contamination and contaminant loading potential.
    - ii. Depth to groundwater.
    - iii. Hydraulic conductivity and gradient.
    - iv. Soil texture, permeability, and contaminant attenuation potential.
- 4. A hydrogeologic assessment shall be required for the following land uses:
  - a. Hazardous substance processing and handling.
  - b. Hazardous waste treatment and storage facility.
  - c. Wastewater treatment plant sludge disposal.
  - d. Solid waste disposal facility.

5. A required hydrogeologic assessment shall be submitted by a hydrogeologist licensed by the state of Washington. The hydrogeologic assessment shall use scientifically valid methods and studies to establish existing (baseline) water quality and shall be used to develop conditions of approval to ensure that the proposed development will not contribute contaminants or facilitate degradation of recharge areas. In addition to the information required in all critical areas reports, the assessment shall include, at a minimum:
  - a. Pertinent well log and geologic data.
  - b. Ambient groundwater quality.
  - c. Groundwater elevation.
  - d. Recharge potential of facility site.
  - e. Current data on wells and any springs located within one thousand feet (1,000') of the facility.
  - f. Surface water location and potential recharge.
  - g. Water supply source for the facility.
  - h. Analysis and discussion of the effects of the proposed project on the groundwater resource.
6. A required hydrogeologic assessment must demonstrate that the proposed use does not present a threat of contamination to the aquifer system. Successful demonstration of those findings warrants approval under this section.

#### **6-30-040. Critical Areas: Fish and Wildlife Habitat Conservation Areas**

Note that Fish and Wildlife Habitat Conservation Areas are a type of Critical Area, so the General Provisions and Regulations for Critical Areas also apply. [clarification added 12-15-09]

##### 6-30-040-A. Policies

1. Development in Fish and Wildlife Habitat Conservation Areas should result in no net loss of shoreline ecological functions.

##### 6-30-040-B. Regulations

1. Within shoreline areas, Fish and Wildlife Habitat Conservation Areas include:
  - a. All areas identified in the "Biological Synthesis" map of the *Shoreline Inventory and Characterization* as Natural Heritage Sites, ~~Fishing Hot Spots~~, Priority Habitat and Species and Habitat areas, or Wetlands;
  - b. All other areas with which any Species of Concern, Priority Species, or federally-listed species has a primary association; and
  - c. All other Priority Habitat areas. ~~[Ecology, 8-20-06: This section does not adequately protect fish and wildlife habitats in Moses Lake shorelines at the standard required in the Shoreline Management Act (SMA) and WAC 173-26 (shoreline rules). The SMA requires protecting "the vegetation and wildlife, and waters of the state and their aquatic life." This primary policy of the SMA is not limited to Priority Species, or species listed at any threat level under the state's Threatened and Endangered Species law, or the federal Endangered Species Act. In short, the standard in the SMA, as with the no net loss of ecological function standard, is higher than that of the Growth Management Act (GMA). GMA critical habitat provisions may not be good enough to pass the SMA muster if they address only species at risk and fail to protect existing common habitats and species.] [Discussed with Ecology 12-10-09: This section is intended to meet the GMA habitat provisions specifically. Overall habitat protection as required by SMA is achieved by the SMP as a whole.]~~
2. All uses and activities shall comply with the Vegetation Conservation provisions in Chapter 8 of

this SMP and the Wetlands provisions in this chapter.

3. Habitat assessments

- a. ~~A habitat assessment shall be required prior to approval of the following uses and activities:~~
  - i. ~~Any use or activity, requiring a shoreline substantial development permit or exempt from a shoreline permit, on a site that contains or is within three hundred feet (300') of a Fish and Wildlife Habitat Conservation Area shall be reviewed to determine whether a Habitat Assessment is needed. (Need to add criteria to explain when a Habitat Assessment is required—Ecology, 8-20-06)~~
  - ii. ~~Any use or activity exempt from the shoreline substantial development permit requirement on a site that contains or is within three hundred feet (300') of a Natural Heritage Site or Priority Species and Habitat area; or that contains or is within fifty feet (50') of a Fishing Hot Spot.~~
- b. A required habitat assessment shall be prepared by a professional wildlife biologist. In addition to the information required in all critical areas reports, the habitat assessment shall include, at a minimum, the following:
  - i. An analysis and discussion of species or habitats known or suspected to be located on the site or within three hundred feet (300') of the site ~~(or, in the case of Fishing Hot Spots, within fifty feet [50'] of the site).~~
  - ii. A site plan that clearly delineates the fish and wildlife habitats found.
  - iii. An analysis and discussion of the anticipated effects of the proposed use or activity on fish and wildlife habitat, including the likelihood that any Priority Species, Species of Concern, or federally-listed species will maintain and reproduce over the long term.
- c. Required habitat assessments shall be forwarded for review and comment to agencies with expertise or jurisdiction related to the proposal, including, but not limited to:
  - i. The Washington Department of Fish and Wildlife.
  - ii. The Washington Department of Natural Resources.
  - iii. The U. S. Fish and Wildlife Service. [Ecology, 8-20-06: All of these agencies are short on staff and should not be solely relied upon to provide technical review of habitat management plans. The City should be prepared to hire its own technical expertise]
- d. The City shall consider the habitat assessment, any comments received from reviewing agencies within forty-five (45) days, and the findings of the *Shoreline Inventory and Characterization*.
  - i. If the City determines, based upon its review, that the proposed use or activity is not likely to result in loss of fish and wildlife habitat, the development may proceed without any additional requirements under this section.
  - ii. If the City determines, based upon its review, that a use or activity requiring a shoreline substantial development permit is likely to result in loss of fish and wildlife habitat, a habitat management plan shall be prepared.
  - iii. If the City determines, based upon its review, that a use or activity that is exempt from the requirement for a shoreline substantial development permit is likely to result in loss of fish and wildlife habitat, the Administrator shall require buffers and setbacks adequate to protect the habitat, based on Best Available Science. Consultation with agencies with expertise or jurisdiction related to the subject species or habitat and, where applicable, The Washington Department of Community, Trade, and Economic Development's *Citations of Recommended*

*Sources of Best Available Science For Designating and Protecting Critical Areas* shall be the preferred source of information regarding Best Available Science.

#### 4. Habitat Management Plans

- a. A habitat management plan required under this section shall be prepared by a professional wildlife biologist. In addition to the information required in all critical areas reports, the habitat management plan shall include, at a minimum, the following:
  - i. Analysis and discussion of the project's effects on fish and wildlife habitat.
  - ii. An assessment and discussion of special management recommendations that have been developed for species or habitat located on the site by any federal or state agency.
  - iii. Proposed mitigation measures that could minimize or avoid impacts.
  - iv. Assessment and evaluation of the effectiveness of mitigation measures proposed.
- b. Required habitat management plans shall be forwarded for review and comment to agencies with expertise or jurisdiction related to the proposal, including, but not limited to:
  - i. The Washington Department of Fish and Wildlife.
  - ii. The Washington Department of Natural Resources.
  - iii. The U. S. Fish and Wildlife Service.
- c. The City shall consider the habitat management plan, any comments received from reviewing agencies within forty-five (45) days, and the findings of the *Shoreline Inventory and Characterization*.
  - i. If the City determines, based upon its review, that the proposed use or activity will cause no net loss of fish and wildlife habitat, the project may proceed without any additional requirements under this section.
  - ii. If the City determines, based upon its review, that mitigation will be required to protect fish and wildlife habitat, the Administrator shall require ~~such~~ sufficient to protect fish and wildlife habitat, based on Best Available Science, as a condition of project approval. Consultation with agencies with expertise or jurisdiction related to the subject species or habitat and, where applicable, The Washington Department of Community, Trade, and Economic Development's *Citations of Recommended Sources of Best Available Science For Designating and Protecting Critical Areas* shall be the preferred source of information regarding Best Available Science.
  - iii. If the City determines, based upon its review, that impacts of the proposed use or activity on fish and wildlife habitat cannot be mitigated, approval of the project shall be denied.

#### **6-30-050. Critical Areas: Frequently Flooded Areas**

**6-30-050-A.** Frequently flooded areas are areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for ~~the City of Moses Lake Grant County, Washington and Incorporated Areas~~" dated ~~January 5, 1989~~ February 18, 2009 [updated information since SMP draft prepared], and any revisions thereto, with accompanying flood insurance maps.

**Note that Frequently Flooded Areas are a type of Critical Area, so the General Provisions and Regulations for Critical Areas also apply. [clarification added 12-15-09]**

#### 6-30-050-B. Policies

1. All uses in frequently flooded areas should be sited, designed, implemented, operated, and maintained to avoid impacts to shoreline ecological functions and processes.
2. All activities in frequently flooded areas, including shoreline modifications, should be conducted to avoid impacts to shoreline ecological functions and processes.
3. Development standards in frequently-flooded shoreline areas should reflect the findings of the *Shoreline Inventory and Characterization*.

#### 6-30-050-C. Regulations

1. All uses and activities in shoreline areas, including individual single-family residences, shall be subject to the Flood Hazard Area provisions of the Moses Lake Municipal Code, Chapter 18.53.
2. All uses in frequently flooded areas, including non-structural development (such as recreation trails), shall be sited, designed, implemented, operated, and maintained to avoid impacts to shoreline ecological functions and processes.
3. All activities in frequently flooded areas, including shoreline modifications, shall be conducted to avoid impacts to shoreline ecological functions and processes.

#### **6-30-060. Critical Areas: Geologically Hazardous Areas**

6-30-060-A. Geologically hazardous areas are areas susceptible to erosion hazard, landslide hazard, or seismic activity. Steep slopes (greater than 15%) are considered geologically hazardous areas. In general, such areas are not suitable for placing structures or locating intense activities or uses due to the inherent threat to public health and safety.

Note that Geologically Hazardous Areas are a type of Critical Area, so the General Provisions and Regulations for Critical Areas also apply. [clarification added 12-15-09]

#### 6-30-060-B. Policies

1. Development should be prohibited or minimized on unstable or moderately unstable slopes.
2. Development should be permitted only in locations where no slope protection is necessary or where non-structural protection is sufficient for the life of the project. Structures should be designed and constructed in a manner that provides safety for the useful life of the structure and does not require construction of a retaining wall, bulkhead, or other structural shoreline stabilization during that time span.
3. Because vegetation removal during development of adjacent uplands alters surface runoff and ground water infiltration patterns and can lead to decreased slope stability, vegetation removal on or near steep slopes should be avoided. Retention of natural vegetative buffers should be encouraged.
4. Changes in surface runoff and ground water infiltration patterns that could increase erosion or otherwise destabilize steep slopes (including changes above or below the slope) should be avoided. Specifically, discharge of runoff from impermeable surfaces onto slopes should be avoided.
5. All lots should be of sufficient size that development will not cause the need for structural shoreline stabilization.

#### 6-30-060-C. Regulations

8-1. All uses and activities in shoreline areas, including individual single-family residences, shall be subject to the Geologically Hazardous Area provisions of the Moses Lake Municipal Code, Chapter 19.03, and to the provisions of this section.

9-2. All shoreline areas where, based on the maps developed as part of the *Shoreline Inventory and Characterization*, erosion hazard is “very high” and slope is greater than 15%, are designated as “unstable slopes.”

10-3. All shoreline areas where, based on the maps developed as part of the *Shoreline Inventory*

and Characterization, erosion hazard is “moderate” and slope is greater than 15%, are designated as “moderately unstable slopes.”

41.4. Applications for uses and activities in the following areas shall be accompanied by a geotechnical report that has been prepared by an Engineering Geologist or other geotechnical professional licensed by the State of Washington and that includes the information required in all critical areas reports and meets the standards specified in Section 19.03.160.C of the City of Moses Lake Municipal Code. If it is determined within the geotechnical report that development of the site would present a potential threat to public health, safety, or welfare, or to shoreline ecological functions, then the applicant shall prepare a geologic hazard plan that includes the information required in all critical areas reports and meets the standards specified in section 19.03.160.E of the City of Moses Lake’s Municipal Code.

- a. On unstable or moderately unstable slopes.
- b. In areas between unstable or moderately unstable slopes and the OHWM (i.e., areas below unstable slopes).
- c. In areas above unstable or moderately unstable slopes that are within shoreline areas or are within 100 feet of the top of the slope (upland areas draining to unstable slopes), ~~whichever is greater.~~

42.5. No use or activity shall increase or result in slope instability, erosion, sedimentation, or increased runoff from the site.

43.6. Removal of vegetation from unstable and moderately unstable slopes and from areas between such slopes and the OHWM (areas below unstable slopes) is prohibited, provided that noxious weeds may be removed in accordance with the Vegetation Conservation provisions of this SMP.

44.7. Removal of vegetation from upland areas draining to unstable slopes shall be limited to the minimum necessary to allow the proposed use, provided that noxious weeds may be removed in accordance with the Vegetation Conservation provisions of this SMP.

45.8. In all cases in which a geologic hazard plan is required, the City shall review the plan and determine whether the development proposal warrants approval, conditional approval, or denial. The City shall consider the following factors in making its determination:

- a. Onsite and offsite effects on the stability of slopes affected by the proposed use or activity (including effects of vegetation removal) or runoff from the proposed use or activity.
- b. Effects of the proposed use or activity (including the effects of vegetation removal) on sedimentation, and of any increases in sedimentation on waters of the state.
- c. Proposed vegetation removal.
- d. Proposed increase in impermeable surface area.

9. Stabilization structures or measures to protect existing primary residential structures may be allowed if all of the following conditions are met:

- a. The applicant has shown that no alternatives, including relocation or reconstruction of existing structures, are feasible, and less expensive than the proposed stabilization measure
- b. The proposal will be in strict compliance with WAC 173-26-231 requirements
- c. The applicant has shown that no net loss of ecological functions will result

[added 6-18-07 because required by WAC 173-26-221(2)(c)(ii)(D).

### **6-30-070. Critical Areas: Wetlands**

**6-30-070-A. Applicability:** Wetlands are defined by the State in RCW 90.58.030(2)(h) as [clarification added 12-15-09] areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands do include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

Note that Wetlands are a type of Critical Area, so the General Provisions and Regulations for Critical Areas also apply. [clarification added 12-15-09]

### **6-30-070-B. Policies**

1. Wetlands serve many important ecological and environmental functions, and help to protect public health, safety, and welfare by providing flood storage and conveyance, erosion and sediment control, fish production, fish and wildlife habitat, recreation, water quality protection, water supply, and opportunities for education and scientific research. Wetlands should be preserved and protected to protect the valuable functions provided to society.
2. Wetland areas should be identified and classified according to the *Washington State Wetlands Identification and Delineation Manual* (Washington Department of Ecology Publication 96-94, or as amended), and the *Washington State Wetlands Rating System for Eastern Washington* (Washington Department of Ecology Publication 04-06-15, or as amended), respectively.
3. All wetlands and associated buffers should be protected from alterations that adversely impact them, so that there is no net loss of wetland acreage or functions or of any shoreline ecological functions, including lost time when the wetland does not function. Wetland restoration, creation, and enhancement projects should result in no net loss of wetland acreage and functions or of any shoreline ecological functions. Where feasible, wetland quality should be improved.
4. All uses and activities that potentially affect wetland ecosystems should be controlled within both the wetland and the buffer to prevent adverse impacts.
5. All uses and activities that involve a risk of degradation to Category I wetlands should be controlled within both the wetland and its buffer to prevent loss of wetland functions or values.
6. Requirements for buffer widths and management should take into account the ecological function of the wetland, the characteristics and setting of the buffer, the potential impacts of the adjacent land use, and any other relevant factors.
7. Alterations of wetlands or buffers should not be authorized unless all of the following can be shown: the impact is unavoidable, necessary, minimized, and any remaining impacts are mitigated. Where wetland impacts are mitigated, the type of mitigation that will have the least impact on shoreline ecological functions should be used.
8. Proposals for wetland mitigation should be coordinated with the appropriate resource agencies to ensure adequate design and consistency with other regulatory requirements.
9. Applicants should demonstrate sufficient scientific expertise, supervisory capability, and financial resources to complete and monitor any proposed or required wetland mitigation project.
10. The City does not intend to deny all economic use of any property subject to these policies and regulations, except as the public trust doctrine would limit the use of the property. This policy will be implemented through the appropriate application of methods including but not limited to project design standards, mitigation, reasonable use exceptions [added 12-15-09], and variances.

### **6-30-070-C. Regulations**

1. Designation

- a. All shoreline areas within the City of Moses Lake meeting the criteria in the *Wetlands Identification and Delineation Manual* (Washington State Department of Ecology Publication 96-94, or as amended), regardless of whether those areas have been previously identified or mapped, are hereby designated as critical areas, and are subject to the wetlands provisions of this SMP. [Need to ID wetlands from aerial photos]
- b. All artificial shoreline wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands are hereby designated as critical areas, and are subject to the wetlands provisions of this SMP.

2. Mapping

- a. The approximate location and extent of wetlands are shown on the adopted critical area maps. The following critical area map, along with any related information, is hereby adopted: *Shoreline Inventory and Characterization: Biological Synthesis Map*; ~~(any other local maps?)~~. Additionally, soil maps produced by the U. S. Department of Agriculture's Natural Resources Conservation Service (NRCS) may be useful in helping to identify potential wetland areas.
- b. The aforementioned maps are to be used as a guide for the City, project applicants, and/or property owners to identify potential wetland areas that may be subject to the provisions of this SMP. They shall be consulted when a development application is received to determine whether there is likely to be a ~~known~~ wetland on or near the site.
- c. It shall be the responsibility of the applicant to notify the city of any known wetlands or potential wetland areas on or near the site of any proposed use or activity. The location of wetlands shall be determined by a wetland analysis report conducted by a professional wetland scientist, as defined below, and meeting the standards found within this chapter.

3. The following uses and activities are regulated if they occur in a regulated wetland or its buffer, whether or not any land-use permit or license is required:

- a. Removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;
- b. Dumping of, discharging of, or filling with any material, including discharges of storm water and domestic, commercial, or industrial wastewater;
- c. Draining, flooding, or any disturbance of the water level or water table;
- d. The driving of pilings;
- e. The placing of obstructions;
- f. The construction, reconstruction, demolition, or expansion of any structure;
- g. The destruction or alteration of wetland or buffer vegetation through clearing, mowing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland, ~~provided that the activities are not part of a forest practice governed under Chapter 76.09 RCW or its rules;~~
- h. Activities that result in:
  - i. A significant change of water temperature;
  - ii. A significant change of physical or chemical characteristics of the sources of water to the wetland;
  - iii. A significant change in the quantity, timing, or duration of the water entering the wetland;  
or
  - iv. The introduction of pollutants;
- i. Activities reducing the functions of buffers; or

- j. Other uses or activities that result in a significant ecological impact to the physical, chemical, or biological characteristics of wetlands, or any net loss of shoreline ecological functions.

4. Wetland ratings

- a. *Classification.* Wetlands in the City of Moses Lake and its UGA shall be classified into the following categories according to the *Washington State Wetlands Rating System for Eastern Washington* (Washington Department of Ecology Publication 04-06-15, or as amended):

- i. Category I

- ~~1. Generally, these wetlands are not common and make up a small percentage of the wetlands in Eastern Washington. Category I wetlands are those that:~~

- ~~One. Represent a unique or rare wetland type;~~

- ~~Two. Are sensitive to disturbance;~~

- ~~Three. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or~~

- ~~One.Four. Provide a very high level of functions.~~

- ~~4.2~~ Category I wetlands include alkali wetlands, Natural Heritage wetlands, mature and old-growth forested wetlands with slow growing trees, and wetlands that perform many functions well, as measured by the rating system.

- ~~3~~ Generally, these wetlands are not common and make up a small percentage of the wetlands in Eastern Washington. Category I wetlands are those that:

- ~~One. Represent a unique or rare wetland type;~~

- ~~Two. Are sensitive to disturbance;~~

- ~~Three. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or~~

- ~~Four. Provide a very high level of functions.~~

- ii. Category II wetlands are:

- 1. Mature forested wetlands containing fast growing trees;
            - 2. Vernal pools present within a mosaic of other wetlands; or
            - 3. Those wetlands with a moderately high level of functions.

- These wetlands are difficult, though not impossible, to replace. They provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a high level of protection.

- iii. Category III wetlands are:

- 1. Vernal pools that are isolated; or
            - 2. Wetlands with a moderate level of functions, as measured by the rating system. These wetlands have generally been disturbed in some manner, and are often smaller, less diverse and/or more isolated in the landscape than Category II wetlands. They may not require as much protection as Category I and II wetlands.

- iv. Category IV wetlands have the lowest levels of functions, as measured by the rating system, and are often heavily disturbed. These are wetlands that ~~we~~ should be able to be replaced, and in some cases improved. These wetlands do provide some important functions, and should be afforded some degree of protection.

- b. In the case of wetlands identified in the map portfolio developed as part of the *Shoreline Inventory and Characterization*, wetland rating categories shall be applied as the wetland exists at the time of adoption of this SMP. In all other cases, wetland rating categories shall be applied as the wetland exists at the time of an associated permit application. Wetland rating categories shall not change due to illegal modifications.

5. Standards

- a. General requirements

- i. All uses and activities shall be prohibited in wetlands and wetland buffers, except as provided for in this SMP. No alteration to wetlands or wetland buffers shall result in a net loss of shoreline ecological functions, including wetland area, functions, or values.
  - ii. New commercial uses shall be prohibited in wetlands, except as provided for in the “Public Agency and Utility Exception”, “Reasonable Use Exception”, and “Variance” sections of this SMP. Existing commercial uses in wetlands shall be considered nonconforming.
  - iii. The conversion of wetlands not currently in agricultural use to a new agricultural use is subject to the compensatory mitigation provisions of this chapter. Conversion includes the clearing of wetland vegetation for pasture or preparation for planting of crops.
  - iv. The conversion of wetlands currently in agricultural uses to non-agricultural uses is subject to the compensatory mitigation provisions of this SMP.
  - v. All activities and uses shall be prohibited from Category I wetlands, except as provided for in the “Public Agency and Utility Exception”, “Reasonable Use Exception”, and “Variance” sections of this SMP.
  - vi. For Category II and III wetlands, the following standards shall apply. Full compensation for the loss of acreage and functions of wetland and buffers shall be provided under the terms established under the heading “Compensatory Mitigation Standards” below.
    - 1. Where wetland fill is proposed, it is presumed that an alternative development location exists; activities and uses shall be prohibited unless the applicant can demonstrate that:
      - a. The basic project purpose cannot reasonably be accomplished on another site or sites in the general region while still successfully avoiding or resulting in less adverse impact on a wetland; and
      - b. All on-site alternative designs that would avoid or result in less adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration or density of the project, are not feasible.
    - 2. Wetland fill must comply with the fill standards in Chapter 8 of this SMP.
  - vii. Category IV wetlands: activities and uses that result in unavoidable impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved wetland analysis report and compensatory mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant’s objectives. Full compensation for the loss of acreage and functions of wetland and buffers shall be provided under the terms established under the heading “Compensatory Mitigation Standards” below.
- b. Report requirements
- i. A wetland analysis report shall be submitted to the Community Development Department for review prior to initiation of any use or activity adjacent to or within an affected wetland or its buffer.
  - ii. A compensatory mitigation report shall be submitted to the Community Development Department when a proposed use or activity will involve wetland and/or buffer impacts, as shown by a wetland analysis report.
  - iii. When appropriate, the Community Development Director may also require a wetland report to include an evaluation by the State Department of Ecology or an independent qualified expert regarding the applicant’s analysis and the effectiveness of any proposed mitigating measures or programs and to include any

recommendations as appropriate.

c. Criteria for wetland analysis reports

- i. A wetland analysis report shall be prepared by a qualified professional who is a certified Professional Wetland Scientist or a non-certified professional wetland scientist with a minimum of five (5) years of experience in the field of wetland science, including experience preparing wetland reports.
- ii. The written report and the accompanying scaled plan sheets shall contain the following information, at a minimum:
  1. Written report:
    - a. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the wetland analysis report; a description of the proposal; identification of all the local, state, and/or federal wetland-related permit(s) required for the project; and a vicinity map for the project;
    - b. A statement specifying the accuracy of the report and all assumptions made and relied upon;
    - c. Documentation of any fieldwork performed on the site, including field data sheets for delineations, function assessments, baseline hydrologic data, etc.;
    - d. A description of the methodologies used to conduct the wetland delineations, function assessments, or impact analyses, including references;
    - e. Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains, and buffers on or adjacent to the proposed project area. For areas off of the project site, estimate conditions within 300 feet of the project boundaries using the best available information;
    - f. For each wetland identified on-site and within 300 feet of the project site provide: the wetland rating; required buffers; hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site;
    - g. A description of the proposed actions including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives including a no-development alternative;
    - h. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development;
    - i. A description of reasonable efforts made to apply mitigation sequencing, as defined in this SMP, to avoid, minimize, and mitigate impacts to critical areas;

- j. A discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the currently proposed land use activity;
  - k. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions, and;
  - l. Evaluation of functions of the wetland and adjacent buffer using a functions assessment method recognized by local or state agency staff and including the reference for the method used and all data sheets. The preferred methods are as follows: for Category I wetlands, use (detailed) *Methods for Assessing Wetland Functions* (Washington Department of Ecology Publication 00-06-47); for Category II, III, and IV wetlands use (generic) *Washington State Wetlands Rating System for Eastern Washington* (Washington Department of Ecology Publication 04-06-15).
2. Scaled plan sheet(s):
- a. Maps (to scale) depicting delineated and surveyed wetland and required buffers on-site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates);
  - b. A depiction of proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project.
- d. Criteria for compensatory mitigation reports
- 1. A compensatory mitigation report for wetland or buffer impacts shall be prepared by one or more qualified professional(s) including someone who is a certified Professional Wetland Scientist or a non-certified professional wetland scientist with a minimum of five (5) years experience designing compensatory mitigation projects. Said compensatory mitigation projects must have been installed and monitored for a minimum of two (2) years, in order to verify success. In addition, the design team may include civil engineers, landscape architects, or landscape designers depending upon the complexity of the project.
  - 2. A wetland analysis report, conforming to the standards above, must accompany or be included in the compensatory mitigation report.
  - 3. The compensatory mitigation report must include a written report and scaled plan sheets containing, at a minimum, the following elements. Full guidance can be found in the ~~[Guidance on Wetland Mitigation in Washington State – Part 2: Guidelines for Developing Wetland Mitigation Plans and Proposals, April 2004 \(Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10; Ecology Publication #04-06-013b\)](#)~~ [Wetland Mitigation in Washington State: Part 2 - Developing Mitigation Plans, March 2006 \(Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10; Ecology Publication #06-06-011b \[publication updated\]\)](#) or as revised.
    - a. Written report:
      - i. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the Compensatory Mitigation Report; a description of the proposal; a summary of the impacts and

- proposed compensation concept; identification of all the local, state, and/or federal wetland related permit(s) required for the project; and a vicinity map for the project;
- ii. Description of the existing wetland and buffer areas proposed to be impacted including: acreages (or square footage) based on professional surveys of the delineations; Cowardin classifications including dominant vegetation community types (for upland and wetland habitats); hydrogeomorphic classification of wetland(s) on and adjacent to the site; the results of a functional assessment for the entire wetland and the portions proposed to be impacted; wetland rating based on the sub-section of this chapter headed “Wetland Ratings”;
  - iii. An assessment of the potential changes in wetland hydroperiod from the proposed project and how the design has been modified to avoid, minimize, or reduce adverse impacts to the wetland hydroperiod;
  - iv. An assessment of existing conditions in the zone of the proposed compensation, including: vegetation community structure and composition, existing hydroperiod, existing soil conditions, existing habitat functions. Estimate future conditions in this location if the compensation actions are NOT undertaken (i.e., how would this site progress through natural succession?);
  - v. A description of the proposed conceptual actions for compensation of wetland and upland areas affected by the project. Describe future vegetation community types for years 1, 3, 5, 10, and 25 post-installation including the succession of vegetation community types and dominants expected. Describe the successional sequence of expected changes in hydroperiod for the compensation site(s) for the same time periods as vegetation succession. Describe the change in habitat characteristics expected over the same 25-year time period;
  - vi. The field data collected to document existing conditions, and on which future condition assumptions are based for hydroperiod (e.g., existing hydroperiod based on piezometer data, staff/crest gage data, hydrologic modeling, visual observations, etc.) and soils (e.g., soil pit data—hand dug or mechanically trenched; and soil boring data. Do not rely upon soil survey data for establishing existing conditions);
  - vii. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands);
  - viii. A bond estimate for the entire compensatory mitigation including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice/year for up to five (5) years, annual monitoring field work and reporting, and contingency actions for a period up to the proposed monitoring period;
  - ix. Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.
- b. Scaled plan sheets:
- i. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions;
  - ii. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to

create the compensation area(s). Also existing cross-sections of on-site wetland areas to which impacts are proposed, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation;

- iii. Surface and subsurface hydrologic conditions including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions;
  - iv. Conditions expected from the proposed on-site actions including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future hydrologic regimes;
  - v. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffer reduction or enlargement beyond the standards identified in this SMP is proposed;
  - vi. A plant schedule for the compensatory area including all species by proposed community type and hydrologic regime, size and type of plant material to be installed, spacing of plants, "typical" clustering patterns, total number of each species by community type, and timing of installation;
  - vii. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each biennium.
- e. Compensatory mitigation standards
- i. Mitigation shall achieve wetland functions equivalent to or greater than those that existed in the wetland prior to mitigation.
  - ii. When possible, mitigation shall be on-site and sufficient to maintain the functions and values of the wetland and buffer areas. If on-site mitigation is not feasible, then the applicant shall demonstrate that the site is the nearest that can reasonably achieve the goals of mitigation with high likelihood of success.
  - iii. Applicants shall demonstrate sufficient scientific expertise, supervisory capability, and financial resources to complete and monitor any proposed or required wetland mitigation project.
  - iv. Mitigation actions that require compensation by restoration of a former wetland, enhancement of a degraded wetland, or creation of new wetlands shall occur in the following order of preference:
    - a. Restoring a former wetland or creating a new wetland on the site of the project;
    - b. Restoring a former wetland or creating a new wetland in the same sub-basin as the project site;
    - c. Creating wetlands from disturbed upland sites outside of the subbasin;
    - d. Enhancing degraded wetlands;
    - e. Preserving high quality wetlands that are under imminent threat.
  - v. The size of a compensatory mitigation project shall be greater than the size of the affected wetland. When impacts to wetlands and wetland critical area buffers are proposed they must be mitigated using the ratios below.
    - a. The following ratios apply to the creation or restoration of wetlands that is in-kind, on-site, the same category, timed prior to or concurrent with alteration, and has a high probability of success:
      - i. Category I: 6-to-1
      - ii. Category II: 3-to-1
      - iii. Category III: 2-to-1
      - iv. Category IV: 1.5-to-1

- b. Compensatory mitigation that relies primarily on enhancement and/or preservation results in a net loss of area. Therefore, the above replacement ratios shall be double for such actions. The following ratios apply to wetland enhancement and preservation, and to wetland creation and restoration that does not meet the criteria above:
  - i. Category I: 12-to-1
  - ii. Category II: 6-to-1
  - iii. Category III: 4-to-1
  - iv. Category IV: 3-to-1

The ratios above do not apply to remedial actions resulting from unauthorized alterations.

- vi. The mitigation ratio may be increased if the administrator identifies that:
  - a. Uncertainty exists as to the probable success of the proposed restoration or creation;
  - b. A significant time period will elapse between impact and replication of wetland functions;
  - c. Proposed mitigation will result in a lower category of wetland or reduced functions relative to the wetland being impacted; or
  - d. The impact was due to an unauthorized action.
- vii. The administrator may decrease the mitigation ratio where:
  - a. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions have a very high likelihood of success;
  - b. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation actions will provide functions and values greater than the wetland being impacted; or
  - c. The proposed mitigation actions have been conducted in advance of the impact and shown to be successful.
- viii. Required compensatory mitigation reports shall be forwarded for review and comment to agencies with expertise or jurisdiction related to the proposal, including, but not limited to:
  - 1. The Washington Department of Ecology.
  - 2. The Washington Department of Fish and Wildlife.
  - 3. The Washington Department of Natural Resources.
  - 4. The U. S. Army Corps of Engineers.
  - 5. The U. S. Fish and Wildlife Service.
- ix. The Community Development Director shall determine if the compensatory mitigation and monitoring plans and bonding measures proposed by the applicant are sufficient to protect the public health, safety, and welfare, consistent with the goals, purposes, objectives, and requirements of this [SMP\[AH1\]](#).

f. Subdivisions

- i. The ~~long-major~~ or short subdivision of lands that include wetlands is subject to the following:
  - a. Land that is located wholly within a wetland or its buffer may not be subdivided.
  - b. Land that is located partially within a wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is located outside of the wetland and its buffer and meets minimum lot size requirements.
  - c. Access roads and utilities serving the proposed subdivision may be permitted within the wetland and associated buffers only if the City determines that no other feasible alternative exists [and all impacts are mitigated](#).
- ii. The administrator may allow greater density of development outside of wetland areas and associated buffers as an incentive, provided:

- a. A high level of protection for on-site resources is provided and demonstrated in an approved wetland analysis report and compensatory mitigation plan.
- b. Good and sufficient cause has been shown.
- c. ~~The City or other party with jurisdiction has made a determination that failure to grant the increase in density would result in exceptional hardship to the applicant. The overall density of the project does not exceed what would otherwise be allowed.~~
- g. Signs and fencing of wetlands: As a condition of any permit or authorization pursuant to this chapter, the administrator may require temporary or permanent signs and/or fencing along the perimeter of a wetland or buffer in order to protect the functions and values of the wetland, or to minimize future impacts or encroachment upon the wetland or buffer.
- h. Wetland buffers
  - i. Buffer widths: wetland buffers must be maintained in accordance with the following tables:

<b>Wetland buffer widths</b>			
<b>Wetland category</b>	<b>Land-use with low impact</b>	<b>Land-use with moderate impact</b>	<b>Land-use with high impact</b>
IV	25'	40'	50'
III	75'	110'	150'
II	100'	150'	200'
I	125'	190'	250'

Buffer widths for Category I and II Wetlands

<u>Wetland Characteristics</u>	<u>Intensity of Adjacent Land Use</u>		
	<u>Low</u>	<u>Medium</u>	<u>High</u>
<u>Natural Heritage</u>	<u>125'</u>	<u>190'</u>	<u>250'</u>
<u>Alkali or Vernal Pool</u>	<u>100'</u>	<u>150'</u>	<u>200'</u>
<u>High habitat function (habitat score 29-36 points)</u>	<u>100'</u>	<u>150'</u>	<u>200'</u>
<u>Moderate habitat function (habitat score 20-28 points)</u>	<u>75'</u>	<u>110'</u>	<u>150'</u>
<u>High water quality function (24-32 points) and low habitat function (less than 20 points)</u>	<u>50'</u>	<u>75'</u>	<u>100'</u>
<u>Not meeting any of the above criteria</u>	<u>50'</u>	<u>75'</u>	<u>100'</u>

Buffer widths for Category III Wetlands

<u>Wetland Characteristics</u>	<u>Intensity of Adjacent Land Use</u>		
	<u>Low</u>	<u>Medium</u>	<u>High</u>
<u>Moderate habitat function (habitat score 20-28 points)</u>	<u>75'</u>	<u>110'</u>	<u>150'</u>
<u>Not meeting any of the above criteria</u>	<u>40'</u>	<u>60'</u>	<u>80'</u>

Buffer widths for Category IV Wetlands

<u>Wetland Characteristics</u>	<u>Intensity of Adjacent Land Use</u>		
	<u>Low</u>	<u>Medium</u>	<u>High</u>
<u>Score for all 3 basic functions is less than 30 points</u>	<u>25'</u>	<u>40'</u>	<u>50'</u>

<b>High-, moderate-, and low-impact land uses</b>	
<b>Level of impact from proposed change in land use</b>	<b>Types of land use<sup>1</sup></b>
High	<ul style="list-style-type: none"> <li>• Boating facilities</li> <li>• Commercial</li> <li>• Docks</li> <li>• Industrial</li> <li>• Mining</li> <li>• Municipal</li> <li>• Parking—primary</li> <li>• Residential (more than 1 unit/acre)</li> <li>• Recreation—golf courses, play fields, and other intensive recreational uses</li> <li>• Shoreline modifications</li> <li>• Transportation facilities</li> </ul>
Moderate	<ul style="list-style-type: none"> <li>• Residential (1 unit/acre or less)</li> <li>• Recreation—paved trails, campgrounds, and picnic areas</li> <li>• Stormwater management facilities—primary</li> <li>• Utility corridor or right-of-way shared by several utilities and including access/maintenance road</li> </ul>
Low	<ul style="list-style-type: none"> <li>• Unpaved trails</li> <li>• Utility corridor or right-of-way without a maintenance road and with little or no vegetative management</li> </ul>

- ii. Criteria for increasing, reducing, and averaging: The standard buffer widths shall be applied unless the administrator determines through a scientifically supportable method that a greater or lesser buffer width would serve to protect the functions and values of a particular wetland. The standard buffer widths may not be reduced by more than 25%. Greater buffer widths or rehabilitation of an inadequate plant community may be required where necessary to ensure development does not result in adverse impacts to wetlands.
- iii. All buffers shall be measured on a horizontal plane from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according

<sup>1</sup> For uses not listed, the Administrator shall determine the impact level of the land use by comparison to similar uses.

to the wetland category and the proposed land use. The same buffer widths and measurement criteria shall apply to any wetland created, restored, or enhanced as compensation for approved wetland alterations. Buffers shall be clearly marked on the ground and the administrator may require temporary or permanent signs and/or fencing along the perimeter of a wetland or buffer in order to protect the functions and values of the wetland, or to minimize future impacts or encroachment upon the wetland or buffer.

- iv. Wetland buffer width averaging. The administrator may allow averaging of wetland buffer widths in accordance with an approved critical areas report, provided the following conditions are met:
  1. There will be no reduction in wetland functions and values;
  2. The wetland contains variations in sensitivity due to physical characteristics or the character of the buffer varies in slope, soils, or vegetation such that the wetland would benefit from a wider buffer in some areas and a narrower buffer in other places; and
  3. The total area contained in the buffer area is no less than would otherwise have been applied under a constant buffer width.
- v. Where other critical areas coincide with wetlands, buffers shall be configured so as to protect aggregate functions and values. Particular consideration shall be given to habitat connectivity.
- vi. The location of all required buffers shall be clearly and permanently marked on any project site prior to initiation of site work.
- vii. Wetland buffer zones shall be retained in their natural condition. (Where necessary to ensure that development does not result in adverse impacts to wetlands, rehabilitation of degraded buffer zones may be required.) Where buffer disturbances are unavoidable during adjacent construction, re-vegetation with native plant materials will be required.
- viii. The following activities shall be allowed within wetland buffers, provided appropriate measures are undertaken to ensure no net loss of shoreline ecological functions:
  1. Conservation or restoration activities aimed at protecting or enhancing soil, water, vegetation, wildlife, or any shoreline ecological functions;
  2. Removal of plants that represent a hazard to safety, security, or shoreline ecological functions (including noxious weeds), provided those plants are replaced under the direction of a qualified wetlands specialist with appropriate native species from the recommended list (See Chapter 14). Trees shall be replaced at a ratio of 2:1 for younger trees and 4:1 for mature ~~and old-growth~~ trees.
  3. Passive recreation, including pervious walkways or trails located in the outer 25% of the buffer area, wildlife viewing structures, and fishing access areas, provided these are designed and approved as part of an overall site development plan;
  4. Educational and scientific research activities; and
  5. Normal and routine maintenance and repair of any existing public or private facilities, provided disturbed areas are restored to a natural condition.
- i. If the site of a proposed use or activity contains or is within a wetland area, the applicant shall submit an affidavit that declares whether the applicant has knowledge of any illegal alteration to any or all wetlands on the proposed site and whether the applicant previously has been found in violation of any local ordinance pertaining to shorelines or critical areas. If the

applicant has previously been found in violation, the applicant shall declare whether such violation has been corrected to the satisfaction of the City.

6. Storm water management facilities shall be allowed within the outer 25% of a wetland buffer provided there is no other feasible location and that the location of such facilities will not adversely impact the functions and values of the wetland or otherwise cause any loss of shoreline ecological functions. Appropriate vegetation and management activities that will complement buffer function may be required.
7. Unauthorized Alterations and Enforcement
  - a. When a wetland or its buffer has been altered in violation of this SMP, all ongoing development work shall stop and the critical area shall be restored. The City shall have the authority to issue a “stop-work” order to cease all ongoing development work and order restoration, rehabilitation, or replacement measures at the owner’s or other responsible party’s expense to compensate for violation of provisions of this SMP.
  - b. All development work shall remain stopped until a restoration plan is prepared and approved by the City. Such a plan shall be prepared by a qualified professional using the currently accepted scientific principles and shall describe how the actions proposed meet the minimum requirements described below. The Administrator shall, at the violator’s expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.
  - c. The following minimum performance standards shall be met for the restoration of a wetland, provided that if the violator can demonstrate that greater functions and habitat values can be obtained, these standards may be modified:
    - i. The historic structure, functions, and values of the affected wetland shall be restored, including water quality and habitat functions;
    - ii. The historic soil types and configuration shall be replicated;
    - iii. The wetland and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and information demonstrating compliance with other applicable provisions of this SMP shall be submitted to the Administrator.
  - d. Site Investigations. The Administrator is authorized to make site inspections and take such actions as are necessary to enforce this SMP. The Administrator shall present proper credentials and make a reasonable effort to contact any property owner before entering onto private property.
  - e. Any person, party, firm, corporation, or other legal entity violating any of the requirements of this code is deemed to have committed a civil infraction, subject to enforcement and penalties in accordance with the provisions of the Moses Lake Municipal Code. Each day or portion of a day during which a violation of this SMP is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this SMP shall constitute a public nuisance and may be enjoined as provided by the statutes of the State of Washington. The City may levy civil penalties against any person, party, firm, corporation, or other legal entity for violation of any of the provisions of this SMP. The civil penalty shall be assessed at a maximum rate of        dollars per day per violation.
  - f. If the wetland affected cannot be restored, monies collected as penalties shall be deposited in a dedicated account for the preservation or restoration of landscape processes and functions in the watershed in which the affected wetland is located. The City may coordinate its preservation or restoration activities with other local governments in the watershed to optimize the effectiveness of the restoration action.

## **6-40. Economic Development**

**6-40-010.** The following policies apply throughout the shoreline area.

### **6-40-020. Policies**

1. Activities and uses in shoreline areas should result in long-term over short-term benefits to the local economy.
2. In making permitting decisions, the City should evaluate the short-term economic gain or convenience of proposed activities and uses relative to long-term and potentially costly impairments to the natural shoreline that could result from such uses.
3. In making permitting decisions, the City should favor preserving resources and values of shorelines for future generations over development that would irretrievably damage shoreline resources.
4. Water-dependent and water-related commercial development should be accommodated where commercial activities and uses can be accomplished with no net loss of shoreline ecological functions and where such development is consistent with the vision, goals, and policies articulated in the City's Comprehensive Plan.

## **6-50. Environmental Impacts and Water Quality**

**6-50-010.** The Shoreline Management Act is concerned with the environmental impacts that uses and activities may have on water quality and the fragile shorelines of the state. Shoreline areas and water quality are affected in numerous ways by human occupation and development of shoreline areas. Development typically increases the area of impermeable surfaces, which increases runoff, causing higher peak storm water discharge at a higher velocity, which causes scouring and erosion of shorelines. Erosion increases suspended solids and carries heavy metals, household wastes, and excess nutrients into the water, which leads to decreased levels of dissolved oxygen in the water. The degradation of water quality affects wildlife habitat and public health.

### **6-50-020. Policies**

1. The adverse impacts of shoreline uses and activities on ecological processes and functions should be mitigated during all phases of development—including but not limited to design, construction, management, and use—to ensure no net loss of shoreline ecological functions.
2. The City should require reasonable setbacks, buffers, and stormwater management systems to ensure no net loss of water quality or shoreline ecological functions.
3. All runoff treatment measures for the purpose of maintaining and/or enhancing water quality should be conducted on-site and before shoreline development affects waters or shoreline ecological functions off-site.

### **6-50-030. Regulations**

1. Solid and liquid wastes, untreated effluents, oil, chemicals, and other hazardous materials shall not be allowed to enter any body of water or to be discharged onto land. 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.
2. All shoreline uses and activities shall be located, designed, constructed, managed, and maintained in a manner that minimizes adverse impacts to surrounding land and water uses, is aesthetically compatible with the affected area, and ensure no net loss of water quality or shoreline ecological functions.
3. All shoreline uses and activities, both during construction and for the life of the project, shall utilize best management practices to minimize any increase in surface water runoff and to control, treat, and release surface water runoff so that receiving water quality and shoreline ecological functions are not adversely affected. Such measures may include but are not limited to dikes,

catch basins, settling ponds, oil/water separators, grassy swales, interceptor drains, and landscaped buffers. All measures shall be adequately maintained to insure proper functioning over time. The *Stormwater Management Manual for Eastern Washington* (Washington Department of Ecology Publication 04-10-076, or as revised) shall provide the preferred guidance for surface water runoff best management practices.

4. All shoreline uses and activities shall utilize effective erosion control methods during project construction and operation.
5. Land clearing, grading, filling, and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development.
6. All shoreline uses and activities shall be located and designed to minimize or prevent the need for shoreline stabilization measures, flood protection works, filling, or substantial site re-grading.
7. Any dredging or filling activities shall be conducted in such a way as to minimize the effects on water quality from the addition of suspended solids, leaching of contaminants, or disturbances to habitat, and shall be consistent with this master program, [including the dredging and filling provisions in Chapter 8](#), as well as the requirements of applicable regulatory agencies, including but not limited to the Washington Department of Fish and Wildlife and the U. S. Army Corps of Engineers.
8. Herbicides and pesticides shall not be applied or allowed to directly enter water bodies or wetlands unless approved for such use by the appropriate agencies.
9. The City shall give preference to biological or mechanical means rather than herbicides for weed control in shoreline jurisdiction. If the situation requires the use of herbicides, they shall be applied only to noxious weeds, with care taken to prevent chemicals from entering water bodies or damaging beneficial shoreline vegetation. The applicant shall specify the methods that will be used to ensure that the use complies with all provisions of this section "Environmental Impacts and Water Quality", including preventing the chemicals from entering adjacent water bodies or wetlands or damaging beneficial shoreline vegetation.
10. All uses and activities shall adhere to all required setbacks and other development standards, and shall maintain all required buffers, in accordance with the provisions of this SMP.
11. Retaining walls for purposes other than shoreline stabilization shall meet the following minimum standards.
  - a. ~~Retaining walls built for purposes other than shoreline stabilization shall be prohibited in "High Intensity", "High Intensity Resource", "Shoreline Residential Dunes", "Natural", "Water-Oriented Parks and Public Facilities", and "Aquatic" shoreline environments. (This is regulated by the use table in Chapter 9, so is covered by 11.b below)~~
  - b. Environment-specific regulations: where allowed, retaining walls for purposes other than shoreline stabilization shall comply with the environment-specific requirements in Chapter 9 of this SMP.
  - c. The City may increase the required setbacks shown in Table 9.3 where necessary to protect shoreline ecological functions and ensure compliance with all provisions of this section.
  - d. The required setback between the retaining wall and the OHWM shall be considered a buffer zone and shall be planted with native vegetation adequate to prevent entry of pollutants into Moses Lake. [A planting plan shall be submitted for review and approval.](#)

## **6-60. Parking**

**6-60-010.** Parking is the temporary storage of automobiles or other motorized vehicles. The policies that follow apply to all areas where vehicles are parked, including parking incidental to another permitted use.

### 6-60-020. Policies

1. Parking in shoreline areas should serve a permitted shoreline use.
2. Parking facilities should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, aesthetics, public access, and vegetation and habitat maintenance.
3. Parking facilities should be designed and landscaped to minimize adverse impacts upon adjacent properties and the shoreline. Landscaping should consist of vegetation from the recommended list (see chapter 14) or other vegetation approved by the City.
4. Parking should be planned to achieve optimum use of land within the area under shoreline jurisdiction. Where practical, parking should serve more than one use, such as recreational use on weekends and commercial use on weekdays.

### 6-60-030. Regulations

1. Parking in shoreline areas shall directly serve a permitted shoreline use. Parking as a primary use shall be prohibited within shoreline areas and over water.
2. Parking facilities shall prevent surface water runoff from contaminating water bodies, using best available technology and best management practices, including a maintenance program to assure proper functioning over time of any stormwater facilities required to achieve this. The *Stormwater Management Manual for Eastern Washington* (Washington Department of Ecology Publication 04-10-076, or as revised) shall provide the preferred guidance for stormwater best management practices.
3. Commercial parking facilities in areas under shoreline jurisdiction shall be located landward of the principal building being served, except when the parking facility is within or beneath the structure, [where provisions are made to separate and screen the parking from the shoreline](#), or in cases where an alternative location will have less environmental impact on the shoreline.
4. Commercial parking facilities shall be adequately screened and landscaped with plants from the recommended list (see Chapter 14) or other vegetation approved by the City.
5. Parking facilities that will serve more than one use, such as recreational use on weekends and commercial use on weekdays, shall be encouraged.

## **6-70. Public Access**

6-70-010. Shoreline public access is the physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water and the shoreline from upland locations. Public access can include picnic areas, pathways and trails, floats and docks, viewing towers, bridges, boat launches, street ends, ingress and egress, and parking.

### 6-70-020. Policies

1. ~~Developments, uses, and activities, such as subdivisions and commercial activities, on or near the shoreline should not unnecessarily impair or detract from the public's physical or visual access to the water. This provision does not apply to development of individual single family residential lots that are not part of a subdivision, nor does it apply to unauthorized use of private property to access the water. [Ecology, 10-31-06, pointed out that this provision could be subject to endless debate about what is unnecessary impairment of access, and recommended that the provision be stated more directly. Therefore, the new proposed language follows:]~~ [New or expanded subdivisions or multi-family development or commercial, industrial, or public uses that impair or detract from the public's physical or visual access to the water should provide public access as part of the development. \[OK 12-10-09\]](#)
2. Public access should be provided as close as possible to the water's edge without adversely affecting shoreline ecological functions.
3. Public access should be designed with provisions for people with disabilities.

4. Public access to the shorelines afforded by street ends, public utilities, and rights-of-way should be preserved, maintained, and enhanced.
5. Public access opportunities should be designed to provide for public safety.
6. Public access opportunities should be designed to minimize potential impacts to private property and individual privacy. To avoid unnecessary user conflict, there should be a physical separation or other means of clearly delineating public and private space.
7. Public access opportunities should result in no net loss of shoreline ecological functions.
8. Public views of the shoreline from upland areas should be enhanced and preserved. Enhancement of views should not be interpreted as authorizing excessive removal of vegetation that partially impairs views.
9. [The City should consider the impacts to the public's visual access to the water for all projects, whether the project requires a shoreline permit or is exempt from the requirement to obtain a shoreline permit. \[Ecology 8-20-06\]](#)

**6-70-020. Regulations**

1. Development, uses, and activities shall be designed and operated to avoid blocking, reducing, or interfering with the public's physical or visual access to the water and shorelines.
2. The City shall require and use the following information in its review of shoreline use and activity proposals:
  - a. Provisions for public visual and/or physical access to the shoreline;
  - b. Location of public access opportunities relative to the OHWM and to any critical areas;
  - c. Provisions for physical and/or visual access by people with disabilities;
  - d. Provisions for public safety;
  - e. Measures for minimizing potential impacts to private property and individual privacy;
  - f. Provisions for preserving and enhancing public views of the shoreline from upland areas, including any plans for removing, replacing, or enhancing vegetation.
3. Unless it is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment:
  - a. Public access shall be required in Water-Oriented Parks and Public Facilities ("W") shoreline environments, and shall be encouraged in all other shoreline environments.
  - b. Public access shall be required as part of all shoreline development by public entities, including local governments, state agencies, and public utility districts.
  - c. Public access shall be required as part of all non-water-dependent commercial development.
  - d. Public access shall be required as part of all marina development.
  - e. Public access shall be required as part of all primary utility development and, where appropriate, shall be required as part of accessory utility development.
4. In providing visual access to the shoreline, removal of on-site native vegetation shall be limited to the minimum necessary to preserve or enhance views, with the following exceptions:
  - a. Non-native or invasive species may be replaced with plants from the recommended list (See Chapter 14).
  - b. Plants that represent a hazard to safety, security, or shoreline ecological functions may be replaced with plants from the recommended list (See Chapter 14).

Topping of trees shall be prohibited in all cases.

5. Development shall be constructed as far landward as possible to avoid interfering with views from surrounding properties to the shoreline and adjoining waters.
6. Public access opportunities shall be designed, constructed, operated, and maintained to result in no net loss of shoreline ecological functions.
7. Public access sites shall be connected directly to the nearest public street and shall include provisions for people with disabilities, where feasible.
8. Public access easements and permit conditions shall be recorded on the deed of title and/or on the face of the plat or short plat as conditions running with the authorized land use. Said recording with the Grant County Auditor's Office shall occur at the time of permit approval. Future actions by the applicant, successors in interest, or other parties shall not diminish the usefulness or value of the public access provided.

[9. Public access provisions for residential subdivisions are found in the Residential Uses section of Chapter 7.](#)

## **6-80. Signage**

**6-80-010.** A sign is defined as a device of any material or medium that 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. Highway, public information, and temporary signs are addressed in the Use Chart in Chapter 9, and must also comply with Section 18.58 of the Moses Lake Municipal Code and any other applicable regulations.

### **6-80-020. 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 shorelands.
3. Signs should be of a permanent nature and be linked to the operation of existing permitted uses.
4. Signs attached to buildings are preferred over free-standing signs.

### **6-80-030. Regulations**

1. All signs shall comply with Moses Lake Municipal Code 18.58, Signs ~~and Billboards~~.
2. All signs shall be located and designed to minimize interference with vistas and viewpoints, and with visual access to the shoreline.
3. No signs shall be placed on trees or other natural features.
4. Off premises and non-appurtenant signs shall not be permitted.
5. No signs shall have a surface area larger than 36 square feet.

## **6-90. Subdivision and Property Segregation**

**6-90-010.** Subdivisions and property segregations are legal divisions of land for the purpose of sale, lease, or transfer of ownership.

### **6-90-020. Policies**

1. All lots should be of sufficient size that development will not cause the need for structural shoreline stabilization.
2. All lots should be designed to meet the minimum shoreline buffer and [added 1-25-10 to address Ecology's comments that there need to be building setbacks from the shoreline buffer to prevent

impacts to the buffer]building setback of the shoreline environment within which the lot is located.

2.3. To prevent encroachment on the shoreline buffer, the buffer should be marked with a long-term visual cue, such as a low fence, to alert present and future property owners of the location of the buffer edge. The marker should be substantial enough that there is clearly a change in circumstances from one side of the marker to the other. Curbing and survey markers have been shown in the past to be insufficient for this purpose. [added 1-25-10 to address Ecology's comments that the shoreline buffer needs to be protected better than it has been in the past.]

#### 6-90-030. Regulations

1. No lot shall be created that would require structural shoreline stabilization in order to allow development to occur.
2. No lot shall be created that would not accommodate development that meets the minimum building setback for the shoreline environment in which the lot is located.
3. Before the subdivision is recorded, the developer shall install a 3'-tall split-rail fence or similar visual marker to denote the upland edge of the shoreline buffer. Gaps may be left in the fence to allow access to the shoreline. [added 1-25-10]

#### **6-100. Utilities (Accessory)**

6-100-010. Accessory utilities are for small-scale distribution services connected directly to the uses along the shoreline. Electrical, gas, telephone, cable, water and sewer lines are examples of utilities accessory to shoreline uses.

#### 6-100-020. Policies

1. Accessory utilities necessary to serve shoreline uses should be properly installed so as to protect the shoreline and water from contamination and degradation.
2. Accessory utilities and associated rights-of-way should be located outside the shoreline area to the maximum extent feasible. When utility lines require a shoreline location, they should be placed underground.
3. Accessory utilities should be designed and located in a manner that preserves the natural landscape and shoreline ecology and minimizes conflicts with present and planned land uses.
4. Wherever possible, existing utility systems should be improved to enhance shoreline appearance and use.

#### 6-100-030. Regulations

1. Utility development shall, through coordination with government agencies, provide for compatible multiple uses of sites and rights-of-way. Such uses include shoreline access points, trails, and other forms of recreation and transportation systems, provided such uses will not unduly interfere with utility operations or endanger public health or safety.
2. Sites disturbed for utility installation shall be stabilized during and immediately following construction to avoid adverse impacts from erosion.
3. Sites disturbed for utility installation shall be replanted in accordance with the City's landscaping regulations, using native species from the recommended list (see Chapter 14).
4. The placing of utility lines shall not obstruct or hinder physical or visual access to the shoreline or the lake. ~~If feasible,~~ With the exception of high voltage electrical transmission lines, all utility lines shall be placed underground. [Ecology, 10-31-06: all utilities, including electrical distribution lines, should be required to be underground. High voltage transmission lines would be an exception, but these should not be located near Moses Lake in any case, and are unlikely to be so located]