

# SEPA ENVIRONMENTAL CHECKLIST

## **Purpose of checklist**

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization, or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

## **Instructions for applicants**

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. **You may use “not applicable” or “does not apply” only when you can explain why it does not apply and not when the answer is unknown.** You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal**, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

## **Instructions for lead agencies**

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

## **Use of checklist for nonproject proposals**

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B, plus the [Supplemental Sheet for Nonproject Actions \(Part D\)](#). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in “Part B: Environmental Elements” that do not contribute meaningfully to the analysis of the proposal.

## **A. Background** [Find help answering background questions](#)

- 1. Name of proposed project, if applicable:**
2. Comprehensive Update and Periodic Review of the Shoreline Element of the City of Tonasket Comprehensive Plan and Chapter 18.08 TMC Shoreline Master Program
- 3. Name of applicant:**
  - City of Tonasket, Washington
- 4. Address and phone number of applicant and contact person:**
  - Alice Attwood  
City Clerk  
City of Tonasket  
PO Box 487  
Tonasket, WA 98855  
(509) 486-2132
- 5. Date checklist prepared:**
  - March 14, 2023
- 6. Agency requesting checklist:**
  - City of Tonasket
- 7. Proposed timing or schedule (including phasing, if applicable):**
  - The Tonasket Planning Commission will hold a Public Hearing on April 18, 2023; then it will prepare a recommendation to the City Council.
  - The City Council will act to accept the proposed amendments to the Shoreline Master Program (SMP) in May 2023. Then, will submit to the Department of Ecology (Ecology) for the required review. Following acceptance by the Department of Ecology, the City will adopt the amended SMP.
- 8. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.**
  - Yes; the City's SMP is reviewed periodically to adjust to changes in statutory requirements and the needs and desires of the community.
- 9. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.**

- Previous updates of the SMP included an inventory and characterization, impact analysis etc... Since adoption projects have been implemented and other City planning documents have all been subject to SEPA review.

**10. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.**

- None known.

**11. List any government approvals or permits that will be needed for your proposal, if known.**

- The City of Tonasket, in coordination with Ecology must approve the changes to the SMP prior to adoption of the proposal. Other local, state, and federal agencies may comment on the SMP or recommend changes; these comments are not necessarily approval or permits. Projects within shoreline jurisdiction may require approvals and permits from other government agencies.

**12. Give a brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)**

- See Attachment A – Strikeout copy of Updated Shorelines Element of Comprehensive Plan and Attachment B - Chapter 18.08 Tonasket Municipal Code.

**13. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.**

- The incorporated City of Tonasket is located on the Okanogan River approximately 20 miles south of the Canadian border. The City is about 160 miles northwest of Spokane and 260 east of Seattle. The elevation is 940' at City Hall. See Attachment C for map of the City.

## **B. Environmental Elements**

### **1. Earth** [Find help answering earth questions](#)

**a. General description of the site:**

- The City is located at the confluence of Siwash and Bonaparte Creeks and the Okanogan River. The downtown area is generally flat with the land rising to the east bracketed by the two creek valleys.

**Circle or highlight one: Flat, rolling, hilly, steep slopes, mountainous, other:**

**b. What is the steepest slope on the site (approximate percent slope)?**

- The steepest slopes exceed 45% and are limited to several small areas along the eastern edge of the City.
- c. **What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them, and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.**
- Many different types of soils are found in Tonasket and the immediate adjacent areas. Generally, these soils are not conducive to agricultural pursuits. For the most part, soils are highly permeable and erosion hazard is low to moderate.
- d. **Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.**
- There are no surface indications or history of naturally unstable soils within the present corporate limits.
- e. **Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.**
- Not applicable
- f. **Could erosion occur because of clearing, construction, or use? If so, generally describe.**
- The updated SMP will not have a direct impact on erosion, although the improvements they contemplate may involve clearing and construction. At the time such actions are proposed, further review will be required.
- g. **About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?**
- As a non-project action, the adoption of the updated SMP does not change the amount of impervious surface. Improvements subsequent to adoption may introduce new impervious surfaces to the community, but the amount cannot be estimated at this time. Further review will be required.
- h. **Proposed measures to reduce or control erosion, or other impacts to the earth, if any.**
- Approval of the updated SMP is a non-project action and does not require any such measures.

## 2. [Air Find help answering air questions](#)

- a. **What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.**
- No emissions to the air will result from the adoption of the amendments. If emissions should result from development subsequent to adoption, these impacts will be identified under additional review prior to development.
- b. **Are there any off-site sources of emissions or odor that may affect your proposal? If so,**

generally describe.

- No.

**c. Proposed measures to reduce or control emissions or other impacts to air, if any.**

- As a non-project action, the adoption of the amendments does not require measures to address emissions.

### **3. Water** [Find help answering water questions](#)

**a. Surface Water:** [Find help answering surface water questions](#)

**1. Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**

- The major bodies of water within Tonasket are the Okanogan River, which runs north to south, forming the western boundary of the City, Bonaparte Creek, which runs the southern boundary and Swash Creek, which runs the northern boundary. The Okanogan River continues south and west on its way to joining the Columbia River, approximately 45 miles downstream. There is a small area of wetlands associated with the Okanogan River on the City's southern border.

**2. Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.**

- Not applicable.

**3. Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**

- No filling or dredging of wetlands or surface water will result from the adoption of the amendments.

**4. Will the proposal require surface water withdrawals or diversions? Give a general description, purpose, and approximate quantities if known.**

- No.

**5. Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**

- Portions of Tonasket lie within the 100-year floodplain. See floodplain map, Attachment 4.

**6. Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**

- No; non-project action.

**b. Ground Water:** [Find help answering ground water questions](#)

1. **Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give a general description, purpose, and approximate quantities if known.**
  - No; non-project action.
2. **Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**
  - None.

**c. Water Runoff (including stormwater):**

- a) **Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**
  - Not applicable.
- b) **Could waste materials enter ground or surface waters? If so, generally describe.**
  - No; non-project action.
- c) **Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.**
  - No; non-project action.
- d) **Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any.**
  - None.

#### 4. Plants [Find help answering plants questions](#)

a. Check the types of vegetation found on the site:

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- crop or grain
- orchards, vineyards, or other permanent crops.
- wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
- water plants: water lily, eelgrass, milfoil, other
- other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

- None.

c. List threatened and endangered species known to be on or near the site.

- None known.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any.

- None.

e. List all noxious weeds and invasive species known to be on or near the site.

- All noxious weed species common to North Central Washington can be found in Tonasket.

#### 5. Animals [Find help answering animal questions](#)

a. List any birds and other animals that have been observed on or near the site or are known to be on or near the site.

Examples include:

- Birds: hawk, heron, eagle, songbirds, other:
- Mammals: deer, bear, elk, beaver, other:
- Fish: bass, salmon, trout, herring, shellfish, other: Chinook Salmon and steelhead.

b. List any threatened and endangered species known to be on or near the site.

- Salmon, steelhead.

c. Is the site part of a migration route? If so, explain.

- Yes, the Okanogan River and lower reach of Bonaparte Creek are used by Salmon and Steelhead.

- d. **Proposed measures to preserve or enhance wildlife, if any.**
  - Enforce and implement critical areas and shoreline regulations.
- e. **List any invasive animal species known to be on or near the site.**
  - None known.

**6. Energy and Natural Resources** [Find help answering energy and natural resource questions](#)

1. **What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**
  - Not applicable.
2. **Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**
  - No.
3. **What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any.**
  - None.

**7. Environmental Health** [Find help with answering environmental health questions](#)

- a. **Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal? If so, describe.**
  - No; non-project action.
1. **Describe any known or possible contamination at the site from present or past uses.**
  - None known.
2. **Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**
  - None known.
3. **Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**
  - None.
4. **Describe special emergency services that might be required.**



- None.

**5. Proposed measures to reduce or control environmental health hazards, if any.**

- None.

**b. Noise**

**1. What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?**

- None.

**2. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site)?**

- None.

**3. Proposed measures to reduce or control noise impacts, if any.**

- None.

**8. Land and Shoreline Use** [Find help answering land and shoreline use questions](#)

**a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.**

- The City has a variety to commercial, residential, light industrial and undeveloped land. Proposal will not affect current land uses.

**b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses because of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?**

- Portions of the City and its UGA have been and will continue to be used for agriculture, however it is not classified as agricultural land of long term significance and in fact is zoned for residential use. The adoption of amendments to the Floodplain Management Code will not change how this land is regulated.

**1. Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how?**

- No.

**c. Describe any structures on the site.**

- The City has a wide range of structures including residential, commercial and industrial.
- d. Will any structures be demolished? If so, what?
- No
- e. What is the current Floodplain Management classification of the site?
- See map in Attachment D
- f. What is the current comprehensive plan designation of the site?
- The City has the following comprehensive plan designations: Single-Family Residential, Single/Multi Residential, Multi-Family Residential, Retail Commercial, Service Commercial, Mixed-Use, Industrial, Airport Industrial and Public Use.
- g. If applicable, what is the current shoreline master program designation of the site?
- The City has the following shoreline designations: High Intensity, Urban Conservancy, Shoreline Recreation and Shoreline Residential.
- h. Has any part of the site been classified as a critical area by the city or county? If so, specify.
- Yes, portions of the community include one or more critical areas.
- i. Approximately how many people would reside or work in the completed project?
- None; non-project action.
- j. Approximately how many people would the completed project displace?
- None.
- k. Proposed measures to avoid or reduce displacement impacts, if any.
- None.
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any.
- None.
- m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any.
- None.

## 9. Housing [Find help answering housing questions](#)

a. **Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

- As a non-project action, adoption of the updates SMP has no direct impact on the number of people residing or working in the City.

b. **Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**

- None.

c. **Proposed measures to reduce or control housing impacts, if any.**

- None.

## 10. Aesthetics [Find help answering aesthetics questions](#)

a. **What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

- Not applicable.

b. **What views in the immediate vicinity would be altered or obstructed?**

- None.

c. **Proposed measures to reduce or control aesthetic impacts, if any.**

- None.

## 11. Light and Glare [Find help answering light and glare questions](#)

a. **What type of light or glare will the proposal produce? What time of day would it mainly occur?**

- None.

b. **Could light or glare from the finished project be a safety hazard or interfere with views?**

- None.

c. **What existing off-site sources of light or glare may affect your proposal?**

- None.

d. **Proposed measures to reduce or control light and glare impacts, if any.**

- None.

## 12. Recreation [Find help answering recreation questions](#)

a. **What designated and informal recreational opportunities are in the immediate vicinity?**

- There are a variety of designated and informal recreational opportunities in Tonasket, such as walking, swimming, biking, boating, etc.

**b. Would the proposed project displace any existing recreational uses? If so, describe.**

- No.

**c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any.**

- None.

**13. Historic and Cultural Preservation** [Find help answering historic and cultural preservation questions](#)

**a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.**

- None known.

**b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.**

- None known.

**c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.**

- All new development is subject to a review process that provides opportunities for agencies, Tribes, and other interested parties to comment.

**d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**

- See above.

**14. Transportation** [Find help with answering transportation questions](#)

**a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.**

- The City has a comprehensive street system with US 97 and SR 20 serving as the backbones.

**b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?**

- Yes, TRANGO provides daily service to Oroville and Omak/Okanogan with connections to Twisp, Winthrop, Brewster, and Pateros. There are three transit stops in the City.
- c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).
- No.
- d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.
- No.
- e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?
- None.
- f. Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.
- No.
- g. Proposed measures to reduce or control transportation impacts, if any.
- No.

**15. Public Services** [Find help answering public service questions](#)

- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.
- No.
- b. Proposed measures to reduce or control direct impacts on public services, if any.
- None; Non-project action.

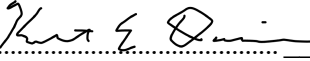
**16. Utilities** [Find help answering utilities questions](#)

- a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other: telecommunications, storm water, cable.
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

- Not applicable.

### C. Signature [Find help about who should sign](#)

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: 

Name of signee \_\_Kurt E Danison\_\_

Position and Agency/Organization \_\_Tonasket City Planner\_\_

Date Submitted: \_3/14/23\_\_

### D. Supplemental sheet for nonproject actions [Find help for the nonproject actions worksheet](#)

**IT IS NOT REQUIRED** to use this section for project actions.

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

#### 1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

**Not applicable, non-project action.**

- Proposed measures to avoid or reduce such increases are:  
Public and agency review and comment periods.

#### 2. How would the proposal be likely to affect plants, animals, fish, or marine life?

**Not applicable, non-project action**

- Proposed measures to protect or conserve plants, animals, fish, or marine life are:  
The action entails adoption of updated, mandated shoreline areas protection.

#### 3. How would the proposal be likely to deplete energy or natural resources?

**Not applicable, non-project action**

- Proposed measures to protect or conserve energy and natural resources are:  
Enforcement of applicable energy codes.

#### 4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

- Not applicable, non-project action.

**Proposed measures to protect such resources or to avoid or reduce impacts are:**

- The action entails adoption of updated, mandated shoreline areas protection.

**5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

- Not applicable, non-project action

**Proposed measures to avoid or reduce shoreline and land use impacts are:**

- The action entails adoption of updated, mandated shoreline areas protection.

**6. How would the proposal be likely to increase demands on transportation or public services and utilities?**

- Not applicable, non-project action

**Proposed measures to reduce or respond to such demand(s) are:**

- Public and agency review and comment periods.

**7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

- No conflicts.

## 6. SHORELINE MANAGEMENT

### A. BACKGROUND

In 1971, in response to a citizens' initiative, the Washington State Legislature passed the Shoreline Management Act (the "SMA" or "Act"). The SMA was adopted by the public in a 1972 referendum. Its purpose is to manage the shorelines of the state in order to protect the public interest in shoreline resources. You can view the entire SMA (RCW 90.58) on the Washington State Legislature's web site at:

<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.58>. The sites listed below also offer information about the SMA and shoreline management in the State of Washington.

Municipal Research and Services Center of Washington (MRSC):

<http://www.mrsc.org/Subjects/Environment/shorelin.aspx>.

Washington Department of Ecology:

[http://www.ecy.wa.gov/programs/sea/SMA/st\\_guide/SMP/index.html](http://www.ecy.wa.gov/programs/sea/SMA/st_guide/SMP/index.html).

### **SHORELINE MASTER PROGRAMS**

Water is one of our most important natural resources. Whether it is for domestic consumption, municipal use, irrigation, recreation or habitat for myriad fish and wildlife species, water and the many beneficial uses it supports are the basis for life and the economy in Tonasket.

The overall statewide goal of shoreline management planning is *"to prevent the inherent harm from uncoordinated and piecemeal development of the state's shorelines"*. One of the ways in which Tonasket protects shoreline resources is through the preparation, adoption, implementation and updating of a Shoreline Master Program which is comprised of this Section of the Land Use Element of the Comprehensive Plan and shoreline regulations adopted in Chapter 18.08 and related chapters of the Tonasket Municipal Code.

Under the SMA each city and county that includes "Shorelines of the State" must adopt a Shoreline Master Program (SMP) that is based on state laws and rules but may be tailored to the specific needs of the community. The SMP is essentially a shoreline comprehensive plan (that is, a planning document – this section) and zoning ordinance (that is, a regulatory document – Chapter 18.08 TMC) applicable to shoreline areas and customized to local circumstances.

SMPs are developed and administered by local jurisdictions in partnership with the Washington State Department of Ecology (Ecology). Tonasket has developed this Shoreline Management Section of the Land Use Element and Chapter 18.08 TMC to reflect local conditions and meet local needs. Ecology reviews the programs prior to final adoption. In reviewing master programs, Ecology is limited to a decision on whether or not the proposed changes are consistent with the policy and provisions of the Act and the SMP guidelines.

Tonasket is responsible for administration of the SMP—that is, review project proposals, issue permits, and enforce shoreline regulations. Ecology reviews Shoreline Conditional Use Permits and Variances and may review some of the City's other permit decisions.



**SHORELINES OF THE STATE**

Shorelines of the State can be divided into two categories: “Shorelines” and “Shorelines of Statewide Significance.”

Shorelines include:

- All streams and associated shorelands, together with the lands underlying them, beginning at the point where mean annual flow is 20 cubic feet per second (cfs) or more
- All lakes over 20 acres in size

Shorelines of Statewide Significance are those that have importance beyond the region; they are afforded special consideration.

In Tonasket, Bonaparte Creek is a “shoreline of the state” while the Okanogan River is a “shoreline of statewide significance” and thus must be afforded special consideration.

**SHORELINE JURISDICTION**

Shoreline jurisdiction is the area to be managed under this Element and Chapter 18.08 TMC and is defined as follows:

- Upland areas that extend 200 feet from the ordinary high-water mark (OHWM) or designated floodway from the waters listed above measured on the horizontal; and
- The following areas when they are associated with those waters:
  - Wetlands and river deltas;

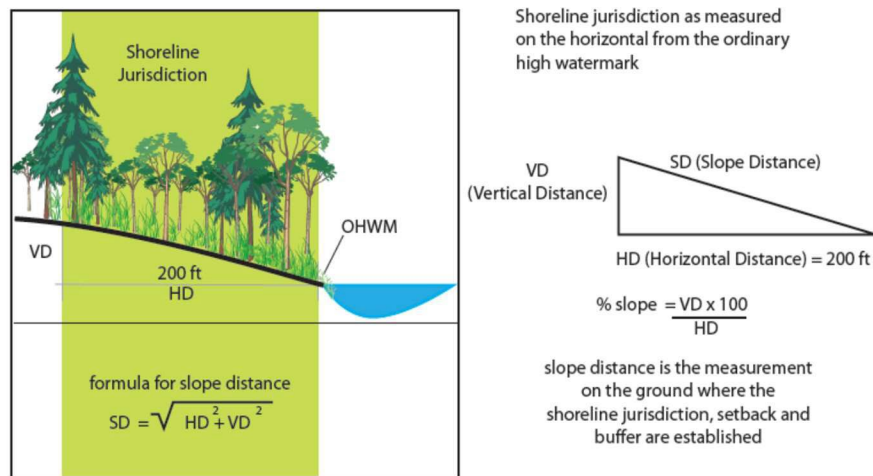


Figure 1 - Measuring Shoreline Jurisdiction

## **DEPARTMENT OF ECOLOGY'S ROLE**

Since the SMA requires a cooperative effort between state and local governments in the protection of shoreline resources, the Department of Ecology has a significant role in the development and implementation of this Master Program. Most of Ecology's work involves providing technical assistance prior to a local decision and is focused in the following areas:

- Ecology shoreline specialists work with local planners on the phone, at pre- application meetings, and through site visits
- Ecology works with applicants to make sure the project does not harm shorelines— in many cases the project can be redesigned so that it meets the policies and regulations of the local master program
- Ecology often receives early notice of a project through SEPA, and works with applicants and local governments before the permit is issued.
- After a local government issues its permits, Ecology has 21 days to review Substantial Development Permits and 30 days to review Conditional Use and Variance permits.
- Ecology's role is to determine if the local action is consistent with the local Master Program and the policies of the Act
- If Ecology disagrees with a local decision on a Substantial Development Permit, Ecology must appeal the decision to the Shoreline Hearings Board
- Ecology must approve, approve with conditions or deny all Conditional Use or Variance permits
- Ecology's decisions on Conditional Use or Variance permits may be appealed to the Shorelines Hearings Board

While the primary responsibility to enforce the SMA rests with the City, there exists a cooperative program between the local governments and Ecology. The cooperative program is to fulfill the duty to "ensure compliance". Enforcement is done through a variety of means, including technical assistance visits, notices of correction, orders, and penalties and permit rescission.

## **SMP GUIDELINES**

Department of Ecology prepares Shoreline Master Program Guidelines under WAC 173.26.

Information regarding Shoreline Master Program updates and procedures and policies including new guidelines and updates can be found at the following URLs:

History and links. Include link to history:

[http://www.ecy.wa.gov/programs/sea/sma/guidelines/downloads/SMA\\_History.pdf](http://www.ecy.wa.gov/programs/sea/sma/guidelines/downloads/SMA_History.pdf).

Ecology site with link, background: <http://www.ecy.wa.gov/programs/sea/SMA/guidelines/index.html>

State master program approval/amendment procedures and master program guidelines (WAC 173-26): <http://apps.leg.wa.gov/WAC/default.aspx?cite=173-26>.

## **SHORELINE MODIFICATIONS**

Shoreline modifications are generally related to construction of a physical element such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal. Shoreline modifications are usually undertaken in support of or in preparation for a shoreline use; for example, fill (shoreline modification) to allow for a public access. All shoreline uses and activities, even those that are exempt from the requirement to obtain a shoreline substantial development permit, and regardless of the Shoreline Designation in which they are undertaken, must conform to all of the applicable policies and regulations listed in this section of the Land Use Element of the Tonasket Comprehensive Plan and Chapter 18.08 TMC. For example, a residential development project that included shoreline stabilization and roads would need to comply with the policies and regulations related to shoreline stabilization and roads as well as those related to residential development.

## **SHORELINE STABILIZATION**

Shoreline stabilization includes actions taken primarily to address erosion impacts to upland property and improvements caused by current, wake, or wave action. Those actions include structural, nonstructural, and vegetative methods.

Structural stabilization may be “hard” or “soft.” “Hard” structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while “soft” stabilization, such as biotechnical vegetation measures, rely on softer materials. There is a range of measures from soft to hard that includes: upland drainage control, biotechnical measures, anchor trees, gravel placement, riprap, retaining walls, and bulkheads. Generally, the harder the stabilization measure, the greater the impact on shoreline processes.

Non-structural methods include placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, established building setbacks, ground water management, and planning and regulatory measures to avoid the need for structural stabilization as established in this section of the Land Use Element of the Tonasket Comprehensive Plan and Chapter 18.08 TMC.

Vegetative methods include re-vegetation and vegetation enhancement. In addition, vegetation is often used as part of structural stabilization methods; it is always part of biotechnical stabilization. For the purposes of this section, vegetative methods are considered to include only re-vegetation and vegetation enhancement.

## **INVENTORY, ANALYSIS AND CHARACTERIZATION**

The SMA requires that all shoreline areas subject to regulation have been inventoried to characterize existing shoreline function to develop a baseline that can be used to measure the no net loss standard against. The inventory is intended to capture opportunities for restoration, public access, and shoreline use patterns. This information informed development of the designations applied to the shoreline areas in the City. More information on the characterization is located in Appendix A and in Part B of this element.

## **CRITICAL AREAS**

The City is required to designate critical areas by the Growth Management Act, RCW 36.70A and is required to regulate development in critical areas within shoreline jurisdiction through the Shoreline Master Program (See Chapter Part III Land Use Element Section 5 Resource Lands and Critical Areas Tonasket Comprehensive Plan for more detail on critical areas in Tonasket and the Urban Growth Area). Critical Areas include the following areas and ecosystems, as designated by the city: wetlands;

- areas with a critical recharging effect on aquifers used for potable water;
- aquatic, riparian, upland and wetland Fish and Wildlife habitat conservation areas;
- frequently flooded areas, including Channel Migration Zones;
- geologically hazardous areas.

Critical areas within shoreline jurisdiction will be regulated under Chapter 18.08 TMC. Those areas outside shoreline jurisdiction will be regulated under Chapter 18.06 TMC. Maps III-3 through III-9 in the Map Appendix designate each type of Critical Area within the City and Urban Growth Area.

## **SHORELINE MANAGEMENT GENERAL GOALS, POLICIES AND CONCEPTS**

### **General Policies:**

The SMA establishes three general policies:

Protect shoreline natural resources including: *“...the land and its vegetation and wildlife, and the water of the state and their aquatic life...”*

Encourage water dependent uses and accommodate reasonable and appropriate uses: *“uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines...”*

Promote public access: *“...the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally.”*

### **Concepts:**

The SMA also considers the following important concepts:

### **Property Rights:**

RCW 90.58.020: “It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.”

**No Net Loss:**

“The point of the no net loss requirement is that local governments need to show that everything permitted under the new SMP, both on a project-by-project and cumulative basis, won't create a net loss of ecological functions. It's not that the SMP has to fix everything that happened before (including ongoing impacts), just that it can't create any NEW loss of ecological function.”

On a project specific basis, the City will require mitigation measures to achieve the no net loss standards under the shoreline master program. The mitigation measures will be considered as outlined below in order of descending preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. 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;
3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments;
6. Monitoring the impact and the compensation projects and taking appropriate corrective measures.

**Preferred Uses**

The SMA establishes the concept of preferred uses of shoreline areas. In order to balance the public's enjoyment of shorelines with “the overall best interest of the state and the people generally”, the SMA gives preference to uses that:

- Are consistent with pollution control;
- Are consistent with prevention of damage to the natural environment; or
- Are unique to or dependent upon use of the state's shoreline

The Act goes on to say that 'Preferred' uses include single family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments and other developments that provide public access opportunities. To the maximum extent possible, the shorelines should be reserved in the following order of preference:

Water-oriented uses

Water oriented uses are water-dependent, water-related, or water-enjoyment, or a combination of such uses. Each of these types of water-oriented use is described in detail below.

Water-dependent uses

Water-dependent uses are uses or a portion of a use that cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations, such as portions of a marina or a hydroelectric generation facility.

Water-related uses

Water-related uses are those that must be located in shoreline areas in order to be economically viable. “Water-related use” means a use or portion of a use which is not

intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

- The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

#### Water-enjoyment uses

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

#### **Exempt Uses**

Exempt activities are defined in 173-27.040 WAC. An exemption from a permit process is not an exemption from compliance with the Act or the shoreline master program, or from any other regulatory requirements. Regulations for exempt activities are found in 18.08.050 TMC.

#### **Conforming and Nonconforming Uses, Structures and Lots**

##### Conforming uses, structures and lots

A conforming use, structure or lot is compliant with current regulations in Chapter 18.08 TMC.

##### Non-conforming uses

Nonconforming uses are uses and developments that were legally established and are nonconforming with regard to the use regulations of Chapter 18.08 TMC may continue as legal nonconforming uses.

##### Non-conforming structures

A nonconforming structure is a lawful structure existing at the effective date of the adoption of Chapter 18.08 TMC that could not be built under the terms of Chapter 18.08 or any amendment thereto. Residential and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following to be considered a conforming structure: setbacks, buffers, or yards; area; bulk; height; or density; and redevelopment, expansion, change with the class of occupancy, or replacement of the residential structure if it is consistent with the Tonasket Comprehensive Plan and Chapter 18.08 TMC, including requirements for no net loss of shoreline ecological functions shall not be considered nonconforming.

##### Non-conforming lots

A nonconforming lot is an undeveloped lot, tract, parcel, site, or division of land which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or the Tonasket Comprehensive Plan and Chapter 18.08 TMC, but which does

not conform to the present lot size standards, may be developed if permitted by other land use regulations of the responsible local government and so long as such development conforms to all other requirements of the Tonasket Comprehensive Plan, Chapter 18.08 TMC and the Act.

### **Ecological Function and Value**

As one of the guiding policies of the SMA, basic policy # 1 requires the protection of shoreline natural resources including the land and its vegetation and wildlife, and the water of the state and their aquatic life. Whenever the terms “shoreline functions and values” are used, it shall refer to the ecological function and ecological value as described below. Similarly, the Tonasket Comprehensive Plan and Chapter 18.08 TMC are required to ensure no net loss in ecological function and value as established below:

#### Ecological Function

Ecological Function encompasses the ecological processes and interactions that occur within an ecological community. Ecological function includes:

- Provision of habitat for native biota;
- Provision of food and other resources for native biota;
- Maintenance of interactions between species (e.g., pollination, dispersal, mutualism, competition, predation)
- Cycling, filtering and retention of nutrients;
- Carbon storage or sequestration;
- Maintenance of soil processes;
- Maintenance of catchment scale hydrological and geochemical processes; and
- Maintenance of landscape scale ecological processes.

#### Ecological Value

Ecological Value attributes include productivity, the ability to provide habitats for dependent species and the diversity of species and organization they support.

### **Riparian Areas or Zones**

Riparian means “stream side” Riparian areas include the land adjacent to lakes, rivers and streams, the vegetation above it, and the groundwater area beneath it. Riparian areas are three-dimensional ecotones of interaction that include terrestrial and aquatic ecosystems that extend into the groundwater, up above the canopy, outward across the floodplain, up the near-slopes that drain to the water, laterally into the terrestrial ecosystem, and along the water course at a variable width. Riparian areas are particularly important to shoreline health because they are ecotones—transition areas between different ecosystems. Ecotones tend to display higher diversity than either of the adjacent ecosystems because they have characteristics of both of them. Riparian areas are no exception. Because they are low-lying and close to the water table, they offer damp, fertile soil that typically supports more vegetation than either the water or the land alongside it. That vegetation provides habitat elements such as food and cover for many species of animals. The zone as a whole provides important ecological function and values including streamside habitat that supports in stream function and values such as cool water via shade, organic matter, nutrient cycling, and habitat structure for terrestrial species.

In areas where no riparian vegetation exists due to shoreline modifications (as is the case landward of the flood control levees throughout most of Tonasket's shoreline areas), riparian zones do not occur. Treatment of these highly altered riparian areas should consider the communities desire to utilize the shoreline for a wide range of residential and commercial uses.

### **Uplands**

The portion of the landscape above the valley floor and/or any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils and/or hydrologic characteristics associated with wetlands. Such areas in floodplains are more appropriately termed non-wetlands.

Uplands are also often used in relationship to streamside areas that do not have wetlands (see riparian definition above).

#### Upland Habitat

Upland Habitat is the dry habitat zones adjacent to and landward of bodies of water.

### **Public Access**

Shoreline public access includes the ability of the general public to reach, touch and enjoy the water's edge, to travel on the waters of the state and the ability to have a view of the water and the shoreline from adjacent locations. Public access can include (but is not limited to) picnic areas, pathways and trails, viewing towers, bridges, boat launches, street ends, ingress and egress, and parking. Visual access can also include (but is not limited to) view corridors between buildings.

### **In-Stream Structures**

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

### **Clearing and Grading**

Clearing and grading are activities associated with developing property for a particular use. Specifically, "clearing" means the destruction, uprooting, scraping, or removal of vegetative ground cover, shrubs, and trees. "Grading" means the physical manipulation of the earth's surface and/or surface drainage pattern without significantly adding or removing on-site materials. "Fill" means placement of dry fill on existing dry or wet areas and is addressed later in this section. Clearing and grading are regulated because they may increase erosion, siltation, runoff, and flooding, change drainage patterns; reduce flood storage capacity; and damage habitat. All clearing and grading within areas under shoreline jurisdiction, even that which does not require a permit, must be consistent with the Shoreline Management Act, the Department of Ecology rules implementing the Act, and the goals and policies within this Section and regulations in Chapter 18.08 TMC.

### **Dredging and Material Disposal**

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud, silt, and/or other materials or debris from any water body or associated shoreline or wetland. Dredging is normally done for specific purposes such as constructing or maintaining canals,



navigation channels, or marinas, for installing pipelines or cable crossings, or for dike or drainage system repair and maintenance. Dredge material disposal is the depositing of dredge materials on land or into water bodies for the purposes of either creating new lands or disposing of the by-products of dredging. Dredge material disposal within shoreline jurisdiction is also subject to the filling policies later in this section.

### **Fill**

Fill is the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the ordinary high-water mark, in wetlands, or on shorelands, including channel migration areas, in a manner that raises the elevation or creates dry land. Fill does not include sanitary landfills for the disposal of solid waste.

### **Bulkheads**

A bulkhead is a type of hard structural shoreline stabilization measure. Bulkheads are walls, constructed parallel to the shoreline and usually in contact with the water, whose primary purpose is to contain and prevent the loss of soil caused by erosion or wave action. A bulkhead-like structure used as part of the structure of a cantilevered dock is not regulated as a bulkhead as long as the width is no more than what is required to stabilize the dock.

Certain bulkheads are exempt from the requirement to obtain a shoreline substantial development permit. However, all bulkheads must comply with the Shoreline Management Act, the rules implementing the Act, this Section and Chapter 18.08 TMC.

### **Vegetation Conservation**

Vegetation conservation includes activities to prevent the loss of plant communities that contribute to the ecological functioning of shoreline areas. The intent of vegetation conservation is to provide habitat, improve water quality, reduce destructive erosion, sedimentation, and flooding; and accomplish other functions performed by plant communities along shorelines. Vegetation conservation deals with the protection of existing diverse plant communities along the shorelines, aquatic weed control, and the restoration of altered shorelines by reestablishing natural plant communities as a dynamic system that stabilizes the land from the effects of erosion.

Vegetation conservation provisions are important for several reasons, including water quality, habitat, and shoreline stabilization. Shoreline vegetation improves water quality by removing excess nutrients and toxic compounds, and removing or stabilizing sediments. Habitat functions of shoreline vegetation include shade, recruitment of vegetative debris (fine and woody), refuge, and food production. Shoreline vegetation, especially plants with large root systems, can be very effective at stabilizing the shoreline.

Vegetation conservation regulations apply even to those uses that are exempt from the requirement to obtain any sort of shoreline permit. A comprehensive list of native plant species is found in Appendix B.

### **Channel Migration Zones**

River channels can move, or migrate, laterally across their floodplains. Channel migration can occur gradually, as a river erodes one bank and deposits sediment along the other. Channel migration also can occur as an abrupt shift of the channel to a new location, called an avulsion, which may happen during a single flood event. The highest rates of channel migration occur in zones of rapid sediment deposition, e.g., where steep rivers flow out of foothills onto flatter

floodplains. Channel migration represents a different type of flood hazard than inundation by overbank flow, and can endanger properties located outside of the regulatory floodplain. The channel migration zone (CMZ) refers to the geographic area where a stream or river has been and will be susceptible to channel erosion and/or channel occupation.

See [http://www.ecy.wa.gov/programs/sea/sma/st\\_guide/jurisdiction/CMZ.html](http://www.ecy.wa.gov/programs/sea/sma/st_guide/jurisdiction/CMZ.html) for more information.

- Within incorporated municipalities and urban growth areas, areas separated from the active river channel by legally existing artificial channel constraints that limit channel movement should not be considered within the channel migration zone.
- All areas separated from the active channel by existing artificial structure(s) that is likely to restrain channel migration, including transportation facilities, built above or constructed to remain intact through the one hundred-year flood, should not be considered to be in the channel migration zone.

### **Restoration**

The governing principals of the shoreline update guidelines requires cities containing shorelines with impaired ecological functions to provide goals and policies to guide the restoration of those impaired shorelines. The regional shoreline staff and advisory committee compiled a list of potential restoration sites using data obtained during the inventory phase of the master program update, which identified impaired shoreline areas. Ongoing restoration efforts were included with the inventoried sites to create a comprehensive list of potential restoration opportunities. General and specific goals and policies have been developed and are listed below to address restoration of these various areas. See Appendix C for Tonasket's Restoration Plan.

## **B. THE TONASKET SMP**

### **INTRODUCTION**

The City of Tonasket lies on the east bank of the Okanogan River; a “shoreline of statewide significance” and includes about a mile of the bottom reach of Bonaparte Creek, a “shoreline of the state”.

### **APPLICABILITY**

The City of Tonasket Shoreline Master Program, comprised of Part III D 6 of the Land Use Element of the Tonasket Comprehensive Plan and Chapter 18.08 TMC applies to all lands owned by private parties and public agencies including, but not limited to, individuals, corporations, trusts, partnerships, Federal (federal activities on federal lands are exempt), State, County, Public Utility Districts and Municipal lands within the incorporated boundary of the city of Tonasket and is subject to administrative review for any development activities owned by public agencies within the city limits.

This section of the Land Use Element and Chapter 18.08 TMC regulate development within shoreline jurisdiction in the corporate limits of the city of Tonasket. Shoreline Areas in the adopted UGA are “pre-designated” with the shoreline designation that will apply upon annexation of the area. However, until such time, those areas will be designated and regulated under the Okanogan County SMP as it exists or is amended.

### **BACKGROUND**

This portion of the Land Use Element of the Tonasket Comprehensive Plan and Chapter 18.08 of the TMC are the result of an update of the City’s original 1991 SMP. The update process began in 2006 as a cooperative inter-governmental process between Okanogan County and incorporated municipalities therein. The process, funded with grants from the Department of Ecology, included the formation of a Shoreline Advisory Group (SAG), a Technical Advisory Group (TAG) and a team of consultants who provided the facilitation, planning and scientific analysis required for preparation of a draft Regional SMP.

The Okanogan County Regional SMP never made it past the preliminary draft stage as the County and cities and towns began going in different directions with Tonasket selecting to continue working with the other municipalities in Okanogan County on completion and refinement of the draft based on early comments from the Department of Ecology.

The City’s Planning Commission then conducted a thorough review of the complete Draft Cities and Towns SMP tailoring it for Tonasket and addressing additional comments from the Department of Ecology. Before public hearings before the Planning Commission and City Councils the process was paused as a result a staff change at Ecology and a new round of discussions and revisions which concluded with this Shoreline Management Section of the City of Tonasket Comprehensive Plan and Chapter 18.08 Shorelines in the Tonasket Municipal Code.

### **SHORELINE CHARACTERIZATION**

The Tonasket City Character Zone includes those shorelines within and adjoining the UGA of Tonasket, RM 61.0 - 55, and along the lowest portion of Bonaparte Creek. At Tonasket, three tributaries, Bonaparte Creek, Siwash Creek, and Unnamed Creek, flow into the main stem, creating a

wide shoreline jurisdiction. Land uses include commercial, residential, and some industrial areas in the central zone, while agricultural lands, orchards, and rural residential lots are found outside the city limits. Public access is developed at Chief Tonasket City Park. Informal access exists at History Park and at bridge crossings and ROWs, but otherwise is limited in the city. See Appendix A for Tonasket's Characterization.

## **TONASKET SHORELINE MANAGEMENT GOALS AND POLICIES**

### **Shoreline General Goals**

1. Provide for the use, development, protection and enhancement of shoreline areas in compliance with the requirements of the Shoreline and Growth Management Acts. Shoreline management planning and regulation take place in a context that includes comprehensive land use, economic development, critical areas protection, flood hazard management, salmon recovery, outdoor recreation, public utilities and watershed planning. The intent is to enhance the efficiency and effectiveness of natural resource planning processes through coordination.
2. Develop and implement permitting and management practices that will ensure the sustainability of natural shoreline systems and preserve, protect and restore unique and non-renewable resources or features including critical areas.
3. Ensure that there is no net loss of the functions and values provided by shoreline and critical areas.
4. Provide for reasonable and appropriate use of shoreline and adjacent land areas while preserving and restoring shoreline natural resources, and protect those resources against adverse impacts, including loss of ecological functions necessary to sustain the natural resources.
5. Protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life;
6. Minimizing damage to the ecology, environment, critical areas and other resources of the shoreline area;
7. Minimizing interference with the public's use of the water; and
8. Balancing public interest with protection of private property rights.
9. Encourage a diversity of shoreline uses, consistent with the city of Tonasket's evolving economy, patterns of land use and comprehensive plan.
10. Sustained yield of shoreline natural resources—such as fish, groundwater and agricultural products—consistent with preservation of ecological functions and protection of the public interest in shorelines of the state should be protected.
11. Avoid costly litigation that may occur as a result of non-compliance with state and federal laws.

### **Shoreline Specific Use Policies**

1. Shorelines regulations should not deny all economic use of any property, except as the public trust doctrine would limit the use of the property. This policy should be implemented through the appropriate application of methods including but not limited to project design standards, site specific evaluation, mitigation, and variances.

2. The background, goals and policies for shorelines management should be adopted as part of the Land Use Element of the Tonasket Comprehensive Plan
3. The standards and regulations for protection of shoreline areas should be integrated into the Tonasket Municipal Code.
4. Where practical, shoreline management planning and regulation should be coordinated with other natural resource planning efforts (local, state, federal and tribal), including critical areas protection, affecting the city of Tonasket and Okanogan County; a comprehensive system of consistent policies and regulations is the desired outcome.
5. As part of a comprehensive approach to management of critical freshwater habitat and other river and stream values, the city encourages the integration of the provisions herein, including those for critical areas, shoreline stabilization, fill, vegetation conservation, water quality, flood hazard reduction, and specific uses, to protect human health and safety and to protect and restore the corridor's ecological functions and ecosystem-wide processes into other parts of the Tonasket Municipal Code.
6. In designating shoreline areas on public-owned land, the city of Tonasket should consider the uses planned, local and specific agency plans and activities by the agency with management authority.
7. Development and uses within shoreline areas should be conditioned to ensure that the proposed use or activity does not result in unanticipated or undesired impacts to other property owners (such as increased flood or geohazards to other property(ies), either upstream, downstream and across the stream), or result in loss of shoreline ecological functions.
8. Shoreline uses and activities should be compatible with existing and planned uses on surrounding sites and in adjacent designations.
9. Permitted uses and activities should be located, sited, designed, managed, and maintained to be compatible with the shoreline designation where they are located and be protective of shoreline 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, wildlife, and aquatic life);
  - e. Ecological processes and functions;
  - f. Critical areas; and
  - g. The natural character of the shoreline area.
10. Any use or activity that cannot be designed, mitigated and/or managed to prevent a net loss of shoreline ecological functions, values and resources and that are not designed to protect the integrity of the shoreline environment should be prohibited.
11. Shoreline regulations should favor preservation of resources and values of shorelines for future generations over development that would irrevocably damage shoreline resources.
12. Development standards, including setbacks, densities, height and bulk limits and/or 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 not be limited to, the following:
- a. Biophysical limitations and ecological functions and values of the shoreline area;
  - b. Existence of critical areas;
  - c. Surrounding development characteristics and land division pattern;
  - d. Level of infrastructure and services available or planned; and
  - e. Other comprehensive planning considerations.
13. 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 avoided. New uses and activities should be designed to preclude the need for such works. In those limited instances in which such works are found to be in the public interest and are allowed, impacts should be mitigated.
  14. No new uses should be allowed in wetlands, shoreline riparian vegetation conservation areas or their buffers without following mitigation sequencing.
  15. The scenic and aesthetic quality of shorelines and vistas should be preserved to the greatest extent feasible.
  16. Reasonable setbacks, buffers, and stormwater management systems should be required for all shoreline development.
  17. Unique, rare, fragile, and scenic natural features or landscapes should be preserved and protected from shoreline development activities.
  18. Natural plant communities within and bordering shorelines should be protected and maintained to ensure no net loss of shoreline ecological functions.
  19. Natural shoreline vegetation should be maintained and enhanced to reduce the hazard of bank failures and accelerated erosion. Vegetation removal that is likely to result in soil erosion severe enough to create the need for structural shoreline stabilization measures should be prohibited.
  20. Restoration of degraded shoreline vegetation, whether by natural or manmade causes, should be encouraged wherever feasible.
  21. Non-structural and “soft” methods of shoreline stabilization, such as vegetation enhancement and bioengineering, are preferred to hardened structures to control the processes of erosion, sedimentation, and flooding. Along the shoreline, these methods can only be done to protect legally established structures, development, utilities and other infrastructure (e.g. roads). The need for bank stabilization should show that the erosion/migration processes are beyond natural rates through geotechnical evaluation. Allowed shoreline stabilization structures should be designed as to not interfere with natural hydrologic and geomorphic processes.
  22. Development should comply with local stormwater management regulations or the Stormwater Management Manual for Eastern Washington (Washington Department of Ecology Publication 04-10-076, as amended) whichever will provide the greatest protection of shoreline functions.
  23. Removal of vegetation should be limited to the minimum necessary to reasonably accommodate the permitted use or activity.

24. The physical and aesthetic qualities of the natural shoreline should be maintained and enhanced.
25. Preference should be given to preserving and enhancing natural vegetation closest to the ordinary high-water mark.
26. Aquatic weed management should emphasize prevention as a first step in control and utilize science-based monitoring to determine eradication methods.
27. Standards to ensure that new development does not result in a net loss of shoreline ecological functions or further degradation of shoreline values should be established for shoreline stabilization measures, vegetation conservation, and shoreline modifications.
28. All shoreline developments should be designed, constructed, operated, and maintained to ensure no net loss of shoreline ecological functions and to protect areas and systems of cultural significance.
29. Commercial developments should include landscaping that will visually enhance the shoreline area and contribute to shoreline functions and values.

#### **Shoreline Economic Development Goal**

1. Ensure healthy, orderly economic growth by providing for economically productive industrial, commercial and mixed uses that are particularly dependent on or related to a shoreline location.

#### **Shoreline Economic Development Policies**

1. Activities and uses in shoreline areas should result in long-term over short-term benefits to the local economy.
2. Projects of statewide economic interest such as hydroelectric development, water storage, port facilities, (including sites intended to accommodate recreation) and other developments that are particularly dependent on or related to a shoreline location or use of the shorelines of the state should be accommodated where such uses and the associated activities can be accomplished without irrevocable damage to unique shoreline character, its resources and ecological functions.
3. Proposed hydroelectric projects should be evaluated in the context of shoreline ecological functions, public access, and navigation, and should be accommodated where said projects are consistent with the public interest and intent of the policies of the SMA.
4. Water-oriented commercial and mixed used developments that provide for public access and protect/restore and/or enhance shoreline resources should be encouraged on shorelines.
5. Non-water-oriented commercial uses should be prohibited unless the use entails reuse of an existing structure or developed area, is consistent with the comprehensive plan and complies with zoning regulations, is part of a project that provides significant public benefit with respect to SMA objectives or is physically separated from the shoreline by a public right of way or separate developed property. Such projects should not unnecessarily impair or detract from the public's physical or visual access to the water.

#### **Shoreline Public Access, Circulation and Recreation Goals**

1. Provide, protect, and enhance physical and visual public access to shoreline areas, consistent with the natural character, features, and resources of the shoreline, private property rights, and

public safety.

2. Provide for public and private active and passive recreational use of shoreline areas.
3. Develop a safe, reasonable, and adequate vehicular and pedestrian circulation and access system, designed to minimize adverse effects on shoreline resources and ecological function wherever practical.
4. Develop a multi-modal circulation and access system that, where practical, contributes to the functional and visual enhancement of shoreline resources.
5. Preserve, create, or enhance open space and natural amenities associated with shorelines for the benefit of the public health and wellbeing which are often lost to waterfront development.
6. Protect the rights of navigation.

### **Shoreline Public Access, Circulation and Recreation Policies**

1. The Tonasket Shoreline Master Program, locally adopted comprehensive plans and any standalone elements thereof (e.g. Okanogan County Trails Plan, City of Tonasket Park and Recreation Plan) should be considered the official public access plans.
2. Tonasket's shoreline area public access systems should include provisions for people of all abilities. While it may not be practical to provide specialized facilities at all access points, physical and visual access for people of all abilities should be distributed throughout the system and should provide a variety of opportunities representative of the opportunities available to able-bodied users.
3. All developments, uses, and activities on or near the shoreline should, to the extent practical, not impair or detract from the public's physical or visual access to the water.
4. Provision of public access should result in no net loss of shoreline ecological functions.
5. Public access to the shorelines afforded by street ends, public utilities, and rights-of-way should be inventoried, preserved, maintained, and, where consistent with locally adopted access plans, enhanced.
6. Public access facilities should be located and designed to provide for public safety and minimize potential impacts to private property and individual privacy. Where appropriate, there should be a physical separation or other means of clearly delineating public and private space to avoid unnecessary user conflict.
7. Where public access facilities are provided, they should be located and designed to minimize potential impacts to existing and potential uses and activities.
8. Where providing public access on site that would likely cause impacts difficult or impossible to mitigate—for instance, at sites with unique or fragile geological or biological characteristics—the SMP should encourage off-site public access based on opportunities identified in the Shoreline Characterization Report (see Appendix A) and other adopted documents.
9. Public views of the shoreline from upland areas should be protected from new development where not in conflict with permitted uses and activities. Enhancement of views should not be interpreted as authorizing excessive removal of vegetation that impairs views.
10. When large subdivisions, planned developments and/or binding site plans containing 5 or more lots or units are proposed in shoreline areas, public open space and shoreline access should be encouraged and be commensurate to the impacts of the proposed development as



well as, consistent with locally adopted comprehensive plans and, meet new needs that will be generated by the proposed development. Where possible the public open space requirements provided in this portion of the Land Use Element of the Tonasket Comprehensive Plan and Chapter 18.08 TMC should be integrated with any open space requirements in local land use regulations. Innovative public access proposals are encouraged.

### **Shoreline Historic, Cultural, Scientific and Educational Goals**

1. Recognize and protect important archaeological, historic, and cultural structures, sites, and areas and other resources having historic, cultural, or educational values that are located in the shoreline area for educational, scientific, and enjoyment uses of the general public. (This goal recognizes that identification of some culturally sensitive sites may not be feasible. It is the City's intention to exercise due diligence in protecting cultural and archaeological resources.)
2. Due to the limited and irreplaceable nature of the resource(s), prevent the destruction of or damage to any site having historic, cultural, scientific, or educational value as identified by the appropriate authorities, including affected Indian tribes, and the Washington State Department of Archaeology and Historic Preservation (DAHP).

### **Shoreline Historic, Cultural, Scientific and Educational Policies**

1. All uses and activities (public and private) should comply with local, state, federal, and tribal requirements for protection of any resources that have significant archeological, historic, cultural, scientific, or educational value as identified by the relevant authorities, including the Confederated Tribes of the Colville Reservation (CCT) and the Washington State Department of Archaeology and Historic Preservation (DAHP).
2. Where permitted by law, sites containing archaeological, cultural, and historic resources should be identified to avoid damage to the resources and the delay and expense associated with discovery of resources during development. Where disclosure of the location of such sites is restricted, relevant authorities, including the CCT and the DAHP should be notified of permit applications within 500' (five hundred feet) of known archaeological and historic resources.
3. Development within 500' (five hundred feet) of an identified historic, cultural, or archaeological site should be inspected or evaluated by a professional archaeologist, in coordination with affected Indian tribes, and designed and operated to be compatible with continued protection of the historic, cultural, or archaeological resources.
4. Archaeological sites located both inside and outside shorelines jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC as well as the provisions of this Element and Chapter 14.28 TMC. The provisions of this section apply to archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered. Additionally, these policies apply on any other sites identified by the DAHP or the CCT as having a high probability of containing significant archaeological and historic resources, consultation with the DAHP and the CCT should be required before issuance of any permits or exemptions. This policy applies to all uses and activities, including individual single-family residences.
5. Where feasible, sites containing archaeological, cultural, or historic resources should be permanently protected and preserved for study, education, and public observation. Feasibility

should be assessed in consultation with the CCT and the DAHP and in the context of the proposed development or activity, the location and planned use of the site, and the nature and quality of the shoreline resources present. The CCT and the DAHP should be consulted regarding possible impacts of public access and/or interpretation. In those places where access is deemed feasible and appropriate, such access should be designed and managed to protect the resources.

6. Access to educational, cultural, or historic sites should not reduce their resource value or degrade the quality of the environment.
7. Historic, cultural, and archaeological site development should be planned and carried out so as to prevent impacts to the resource. Impacts to neighboring properties and other shoreline uses should be limited to temporary and reasonable levels.
8. Sites deemed to have educational, cultural, or historic value should be prioritized for purchase or acquisition by gift to ensure their protection and preservation.
9. Significant educational or cultural features or historic sites should be prioritized for restoration to further enhance the value of the shorelands.

## **SHORELINE MANAGEMENT SPECIFIC USE AND ACTIVITY POLICIES**

### **Agriculture Policies**

1. New agricultural uses should be allowed where they are consistent with the comprehensive plan and be subject to all applicable provisions of this Section and Chapter 18.08 TMC.
2. A vegetative buffer of native plants should be maintained, or established and maintained between agricultural lands and water bodies or wetlands in order to protect water quality and to maintain habitat for fish and wildlife.
3. Animal feeding operations, retention and storage ponds for agricultural run-off, feed lots, feed lot waste, and manure storage should be located outside of shoreline areas and constructed to prevent contamination of water bodies and degradation of the shoreline environment.
4. Appropriate farm and soil management techniques should be employed to prevent fertilizers, herbicides, and pesticides from contaminating water bodies and wetlands and from having a harmful effect on other shoreline resources such as vegetation and soil.
5. Provisions for public access to shorelines should not restrict current agricultural uses. In the event new public access poses a threat to on-going agricultural uses, the jurisdiction shall facilitate the coordination of activities between conflicting users of the shorelines.
6. Development on agricultural lands not meeting the definition of agricultural activities or the conversion of agricultural land to nonagricultural uses should be consistent with the shoreline designation and the general and specific use regulations of this portion of the Land Use Element of the Tonasket Comprehensive Plan and Chapter 18.08 TMC and should not result in a net loss of ecological functions.

### **Aquaculture Policies**

1. Aquaculture should be prohibited in all shoreline designations.

**Boating Facilities Policies**

1. Boating facilities (ramps and floats) should be located, designed, and operated to provide maximum feasible protection and enhancement of aquatic and terrestrial life including animals, fish, birds, plants, and their habitats and migratory routes.
2. Boating facilities, including minor accessory buildings and haul-out facilities, should be in character and scale with the surrounding shoreline and should be designed so their structures and operations will be aesthetically compatible with or will enhance existing shoreline features and uses. Boating facilities should be proposed at the time of subdivision or planned development application.
3. Boating facilities should be located and designed so their structures and operations will be aesthetically compatible with the area visually affected and will not unreasonably impair shoreline views. Use of natural non-reflective materials should be encouraged.
4. Public and community (private) boating facilities are preferred over individual private facilities.
5. Individual private launches/ramps for motorized watercraft should be prohibited.
6. Community or group facilities should be required of developments that serve at least four dwelling units.
7. Private and/or commercial boating facilities should be sited in the appropriate environmental designation.
8. Regional as well as local needs should be considered when determining the location of boat launches and floats. Potential sites should be identified near high-use or potentially high-use areas.
9. Dry boat storage should not be considered a water-oriented use. Boat launch ramps, and access routes associated with a dry boat storage facility should, however, be considered to constitute a water-oriented use.
10. Because docks can have a significant impact on shoreline habitat and functions, they should not be allowed in the shorelines of Tonasket.
11. New commercial docks and marinas should be prohibited.
12. Buoys associated with boating facilities should not impede existing navigational routes, infringe on swimming beaches, or other public access areas. Buoys should be limited to the minimum number needed to provide moorage to the development.

**Commercial Uses Policies**

1. New commercial development in shoreline areas should be consistent with the Tonasket Comprehensive Plan.
2. Because shorelines are a limited resource, preference should be given to water- dependent and oriented uses, especially those uses particularly dependent on a shoreline location or those that will provide the opportunity for substantial numbers of people to enjoy the shoreline.
3. Over-water construction for non-water-dependent commercial developments should be prohibited.
4. Commercial development should be designed to provide physical or visual shoreline access or other opportunities for the public to enjoy the shoreline location. Public access should include

amenities appropriate to the type and scale of the development and the qualities and character of the site, which may include walkways, viewpoints, restrooms, and other recreational facilities. Where possible, commercial facilities should be designed to permit pedestrian waterfront activities.

5. Site plans for commercial developments should incorporate multiple-use concepts that include open space and recreation where appropriate to the scope and scale of the project.
6. Commercial developments should be aesthetically compatible with the surrounding area. Aesthetic considerations should be actively promoted by means such as sign control regulations, appropriate development siting, screening and architectural standards, planned unit developments, and landscaping with native plants, including, where appropriate, enhancement of natural vegetative buffers.

### **Industrial Uses Policies**

1. No new non-water-dependent industrial development should be allowed to locate within shoreline areas except when:
  2. The use entails reuse of an existing structure or developed area.
  3. The use is consistent with the comprehensive plan and zoning regulations.
  4. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
5. In areas designated for industrial use, non-water-oriented industrial uses can be allowed if the site is physically separated from the shoreline by another property, public right of way or entails the reuse of an existing structure or developed area.
6. New industrial development in shoreline areas should be consistent with the city of Tonasket Comprehensive Plan and should be located to minimize sprawl and inefficient use of shoreline areas and, where applicable, to promote trip reduction.
7. New over-water construction for industrial uses should be prohibited unless it can be shown to be essential to a water-dependent industrial use.
8. New industrial development should be designed to provide physical or visual shoreline access or other opportunities for the public to enjoy the shoreline location unless such access would be incompatible for reasons of safety, security, or impact to the shoreline environment.
9. Where public access is incompatible with the proposed use, any loss of public access opportunity should be mitigated.
10. Where public access is provided, it should include amenities appropriate to the type and scale of the development and the qualities and character of the site, which may include walkways, viewpoints, restrooms, and other recreational facilities.
11. Where possible, industrial developments should be designed to permit pedestrian waterfront activities.
12. Site plans for industrial developments should incorporate multiple-use concepts that include open space and recreation where appropriate to the scope and scale of the project.

13. To the extent feasible, industrial developments should be aesthetically compatible with the surrounding area. Aesthetic considerations should be actively promoted by means such as sign control regulations, appropriate development siting, screening and architectural standards, planned unit developments, and landscaping with native plants, including, where appropriate, enhancement of natural vegetative buffers.

#### **In-Stream Uses and Structures Policies**

1. In-stream structures for the benefit of the public should be permitted and subject to all state and federal regulations for in-stream uses,
2. Any permitted in-stream structure should provide for the protection and preservation of ecological and ecosystem-wide services including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.
3. In-stream structures for the benefit of fish enhancement and recovery adjacent to or visible from public-owned shorelines, including bridges and overlooks, should incorporate a public education element.
4. The location and planning of in-stream structures should give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

#### **Mining Policies**

1. Commercial mining should be prohibited. Mineral prospecting and placer mining should be allowed subject to the “*Gold and Fish Rules*” as they now exist or hereinafter amended.

#### **Municipal Uses Policies**

1. New municipal uses in shoreline areas should be consistent with the adopted Tonasket Comprehensive Plan and Tonasket Park and Recreation Plan as amended.
2. No municipal uses should be allowed in wetlands, shoreline riparian vegetation conservation areas or their buffers without following mitigation sequencing.
3. Because shorelines are a limited resource, preference should be given to water-dependent and water-oriented uses, especially those uses particularly dependent on a shoreline location or those that will provide the opportunity for substantial numbers of people to enjoy the shoreline.
4. Over-water construction for non-water-dependent municipal uses should be prohibited.
5. Where appropriate, municipal uses should be designed to provide physical or visual shoreline access or other opportunities for the public to enjoy the shoreline location. Public access should include amenities appropriate to the type and scale of the development and the qualities and character of the site, which may include walkways, viewpoints, restrooms, and other recreational facilities.
6. Municipal uses should be aesthetically compatible with the surrounding area.
7. Municipal uses should include shoreline enhancement and restoration activities that will visually enhance the shoreline area and contribute to shoreline functions and values.
8. Favorable consideration should be given to proposals that complement their environment and surrounding land and water uses, and that protect natural areas.

**Overwater Structures (docks and piers) Policies**

1. Overwater structures should not be permitted.

**Parking & Transportation Policies**

1. Parking facilities in shorelines are not a preferred use and should be allowed only as necessary to support an authorized use. Parking in shoreline areas should be located landward of the permitted use. Parking located between the Zone 2 buffer, as established in Chapter 18.08 TMC and the development may be allowed if the proposed parking location follows:
  - a. An adopted downtown master plan, neighborhood or sub-area plan; or
  - b. Current development patterns; or
  - c. The parking area and development are located behind a certified or licensed flood control device such as levee.

In any of the above instances, the applicant must demonstrate that measures to protect ecological function and visual impacts of parking located between the required buffers and building can be addressed through a stormwater management plan, planting plan and appropriate mitigation.

2. Parking facilities should be located, designed and landscaped to minimize adverse impacts, including those related to stormwater runoff, water quality, aesthetics, public access, and vegetation and habitat maintenance.
3. 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.
4. Transportation and parking plans and projects should be consistent with this Section's public access policies, public access plan, and environmental protection provisions.
5. Circulation system planning should include systems for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with this master program.
6. Plan, locate, and design proposed transportation and parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses. Where other options are available and feasible, new roads or road expansions should not be built within shoreline jurisdiction.

**Recreational Uses**

1. The location and design of shoreline recreational developments should be consistent with the adopted Tonasket Comprehensive Plan and Tonasket Park and Recreation Plan.
2. Local, regional, tribal, state, and federal recreation planning should be coordinated. Shoreline recreational developments should be consistent with applicable park, recreation, and open space plans of other jurisdictions.
3. A variety of compatible recreational experiences and activities should be encouraged to satisfy diverse recreational needs.
4. Favorable consideration should be given to proposals that complement their environment and

- surrounding land and water uses, and that protect natural areas.
5. Priority should be given to developments that provide water-oriented recreational uses and other improvements facilitating public access to shoreline areas.
  6. Recreational developments should be located and designed to preserve, enhance, or create scenic views and vistas.
  7. All recreational developments should make adequate provisions for:
    - a. Vehicular and pedestrian access, both on and off site, including, where appropriate, access for people with disabilities.
    - b. Proper water supply and solid and sanitary waste disposal.
    - c. Security and fire protection for the permitted recreational use.
    - d. The prevention of overflow and trespass onto adjacent properties, by methods including but not limited to landscaping, fencing, and posting of the property.
    - e. Buffering from adjacent private property or natural areas.
  8. Trails and paths on steep slopes should be located, designed, and maintained to protect bank stability and comply with applicable Critical Areas regulations.

### **Residential Development**

1. Development of four or more residential units, whether single-family or multi-family, should provide for public access in the form of physical access and visual access unless it can be shown that public access is adequately provided for on public property within  $\frac{1}{4}$  mile walking distance of the proposed development. Public access is considered adequately provided for if all the following criteria are met:
  - a. The access is part of a locally adopted parks, recreation and or public access plan.
  - b. The general public has physical and visual access to access to the water
  - c. Additional use of the access does not pose additional public safety hazard.
  - d. The public access can accommodate anticipated additional uses and impacts as a result of the proposed residential development.
  - e. An existing public access area is provided for on applicant's deed or parcel declaration(s) legally recorded at the County records.
2. Residential development, including appurtenant structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion (e.g., geologically hazardous areas) so that shoreline stabilization structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses.
3. Residential development or mixed-use developments should be sited so as to prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

### **Subdivision and Land Segregation**

1. All proposed plats and lots, whether for agricultural, residential, commercial or industrial uses or activities, should be of sufficient size that development will not cause the need for

structural shoreline stabilization.

2. All proposed plats and lots should be designed with enough area to provide a building site with appurtenant uses (parking, outbuildings etc.), accessory utility needs and fire defensible space to meet the minimum bulk dimensional standards established in Chapter 18.08 TMC for the shoreline designation within which the lot is located, without requiring shoreline variances.
3. Plats and subdivisions, should prevent the need for new flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

### **Signs**

1. Signs to be placed or erected within shoreline jurisdiction should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses and in compliance with applicable local sign regulations.
2. Signs should not block or otherwise interfere with visual access to the water or shoreline areas.
3. Generally, signs should be of a permanent nature and be linked to the operation of existing or permitted uses. Temporary signs and interpretive signs related to shoreline functions should be allowed where they comply with the other policies of this section of the Land Use Element of the Tonasket Comprehensive Plan and Chapter 18.08 TMC and, in the case of temporary signs, where adequate provisions are made for timely removal.
4. Signs attached to buildings are preferred over free-standing signs.
5. Lighting associated with signs should be stationary, non-blinking and non-revolving. Signs should not be erected nor maintained upon trees, or drawn or painted upon rocks or other natural features and artificial lighting of signs should be directed away from adjacent properties and the water.
6. Signs, other than those required for water-dependent use and navigation should not be allowed in the Zone 1 Buffer.

### **Utilities and Accessory Utilities Policies**

1. All utilities should be designed to minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.
2. Utilities that are non-water-oriented including transmission facilities for communications, and power plants, or parts of those facilities should not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.
3. Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, should be located outside of the shoreline area where feasible.
4. Existing rights-of-way and corridors should be used whenever possible to accommodate the location of utilities.
5. Whenever possible, utilities should be located to minimize obstructions of views and vistas. This includes, but is not limited to, views of the shoreline environment from the water, views of the water from shorelines, and views extending beyond the shoreline of other scenic features of local importance such as rock walls, talis slopes, cliffs and perches from the



shoreline or water. To preserve views and vistas and shoreline character, placement of utilities underground should be preferred and mitigated as appropriate with vegetation measures.

6. Accessory utilities necessary to serve shoreline uses should be properly installed so as to protect the shoreline and water from contamination and degradation.
7. Accessory utilities and associated rights-of-way should be located outside the shoreline area to the maximum extent feasible, complying with shoreline setbacks and/or buffers whichever are more protective. When utility lines require a shoreline location, they should be placed underground.

### **Shoreline Modification Policies**

The provisions of this section apply to all shoreline modifications within all shoreline areas.

1. All shoreline modifications should be in support of an allowed shoreline use that is in conformance with the provisions of this Section of the Land Use Element.
2. Shoreline modifications should cause as few environmental impacts as possible and should be limited in size and number.
3. The type of shoreline and the surrounding environmental conditions should be considered in determining whether a proposed shoreline modification is appropriate.
4. Projects that include shoreline modifications should contribute to enhancement of shoreline ecological functions, when possible.
5. As shoreline modifications are allowed to occur, measures to protect and restore ecological functions should be implemented.
6. Development, uses and modifications should plan for the enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.
7. Shoreline developments, uses and modifications should avoid and reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-201 (2)(e).
8. Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from modifications.
9. Accessory utilities should be designed and located in a manner that preserves the natural landscape and shoreline ecology, eliminate the need for topping or pruning trees and minimizes conflicts with present and planned land uses.
10. Wherever possible, existing utility systems should be improved to enhance shoreline appearance and use.

### **Clearing and Grading Policies**

1. Clearing and grading activities should only be allowed in association with an allowed shoreline use.
2. Clearing and grading in shoreline areas should be limited to the minimum necessary to accommodate permitted shoreline development.
3. Clearing and grading should be discouraged in required shoreline setbacks.

4. All clearing and grading activities should be designed and conducted to minimize sedimentation and impacts to shoreline ecological functions, including wildlife habitat functions and water quality.
5. Negative environmental and shoreline impacts of clearing and grading should be avoided or minimized through proper site planning, construction timing and practices, vegetative stabilization or (where required) soft structural stabilization, use of erosion and drainage control methods, and by adequate maintenance.
6. For clearing and grading proposals, a plan addressing species removal, re-vegetation, irrigation, erosion and sedimentation control, and other plans for protecting shoreline resources from harm should be required.
7. After completion of construction, those cleared and disturbed sites should be promptly re-stabilized, and should be replanted as required by a mitigation management plan. Vegetation from the recommended list is preferred.

#### **Dredging and Dredge Material Disposal Policies**

1. Dredging and dredge material disposal should be prohibited in the shoreline areas of Tonasket.

#### **Fill Policies**

1. Fills waterward of the ordinary high water mark should be allowed only when necessary to facilitate water-dependent use, public access, or cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the department of natural resources, expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible, mitigation action, environmental restoration, beach nourishment or enhancement projects and uses that are consistent with this Element and Chapter 18.08 TMC.
2. Shoreline fills should be designed and located so that there will be no significant damage to existing ecological systems or natural resources, and no alteration of local currents, surface water drainage, or flood waters that would result in a hazard to adjacent life, property, or natural resource systems.
3. In evaluating fill projects, such factors as potential and current public use of the shoreline and water surface area, navigation, water flow and drainage, water quality, and habitat should be considered and protected to the maximum extent feasible.
4. The perimeter of any fill should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial fill activities and over time. Natural-appearing and self-sustaining control methods are preferred over structural methods.
5. Where permitted, fills should be the minimum necessary to provide for the proposed use and should be permitted only when they are part of a specific development proposal that is permitted by this master program. Placing fill in water bodies or wetlands to create usable land should be prohibited.

**Shoreline Stabilization Policies**

1. Preserving and restoring shoreline vegetation should be the preferred method of shoreline stabilization.
2. Stabilization measures should be designed, located, and constructed primarily to prevent damage to existing development.
3. No structural stabilization measures should be allowed for a vacant lot.
4. New development should be located and designed to eliminate the need for future shoreline stabilization.
5. Shoreline vegetation, both on the bank and in the water, is very effective at stabilizing shorelines. For this reason, property owners are strongly encouraged to protect existing shoreline vegetation and restore it where it has been removed.
6. Structural solutions to shoreline erosion should be allowed only if non-structural and vegetative methods would not be able to reduce existing or ongoing damage.
7. Public projects should be models of good shoreline stabilization design and implementation.

**Bulkhead Policies**

1. A bulkhead is not a preferred method of stabilizing the shoreline, because bulkheads tend to significantly degrade fish and wildlife habitat by the removal of shoreline vegetation, increase erosion on neighboring properties, and change the natural sedimentation process.
2. Cumulative impacts of bulkheads should be considered, since over time and as more shoreline is lost to bulkheading, the resulting loss of habitat may have long-term impacts on fish populations as well as to the overall ecological value of the shoreline.
3. Most areas along the shorelines in Tonasket can be adequately stabilized using softer, more natural means, such as vegetation enhancement, rather than a bulkhead.
4. If the purpose is not stabilization, a retaining wall, set back from shoreline vegetation, should be used rather than a bulkhead at the water's edge. (Retaining walls for purposes other than shoreline stabilization must comply with the setback and buffering requirements under the heading "Environmental Impacts and Water Quality" of this section of the Land Use Element of the Tonasket Comprehensive Plan and Chapter 18.08 TMC.)
5. Because a bulkhead on one property can accelerate erosion on adjacent properties, the impacts of a proposed bulkhead on adjacent properties should be analyzed and considered before the bulkhead is approved.
6. A bulkhead should be allowed only for existing development for shoreline stabilization, and only if all more ecologically-sound measures are proven infeasible.
7. Property owners are encouraged to remove existing bulkheads and restore the shoreline to a more natural state. As an incentive, such projects should be processed without a fee charged for the shoreline permit.

**Breakwaters, Jetties, Groins & Weirs Policies**

1. Breakwaters, jetties, groins, and weirs located waterward of the ordinary high-water mark should be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. Breakwaters, jetties, groins, weirs, and similar structures should require a conditional use permit, except for those structures

installed to protect or restore ecological functions, such as woody debris installed in streams. Breakwaters, jetties, groins, and weirs should be designed to protect critical areas and should provide for mitigation according to the sequence defined in WAC 173-26-201 (2)(e).

### **Vegetation Conservation Policies**

1. Natural plant communities within and bordering shorelines should be protected and maintained to ensure no net loss of shoreline ecological functions.
2. Natural shoreline vegetation should be maintained and enhanced to reduce the hazard of bank failures and accelerated erosion. Vegetation removal that is likely to result in soil erosion severe enough to create the need for structural shoreline stabilization measures should be prohibited.
3. Shoreline vegetation degraded by natural or manmade causes should be restored wherever feasible.
4. Non-structural and “soft” methods of shoreline stabilization, such as vegetation enhancement and soil bioengineering, are preferred to hard structures to diminish the processes of erosion, sedimentation, and flooding.
5. Removal of vegetation should be limited to the minimum necessary to reasonably accommodate the permitted use or activity.
6. The physical and aesthetic qualities of the natural shoreline should be maintained and enhanced.
7. Preference should be given to preserving and enhancing natural vegetation closest to the ordinary high-water mark and within shoreline setback and buffer areas.
8. Aquatic weed management should stress prevention first.

### **Flood Hazard Reduction**

1. Construction should comply with local flood hazard reduction or flood damage prevention ordinances.
2. Flood hazard reduction efforts in shoreline areas should:
  - a. Where feasible, give preference to nonstructural flood hazard reduction measures over structural measures.
  - b. Base shoreline master program flood hazard reduction provisions on applicable watershed management plans, comprehensive flood hazard management plans, and other comprehensive planning efforts, provided those measures are consistent with the Shoreline Management Act and this section.
  - c. Consider integrating master program flood hazard reduction provisions with other regulations and programs, including (if applicable):
    - i. Storm water management plans;
    - ii. Flood plain regulations, as provided for in chapter 86.16 RCW;
    - iii. Critical area ordinances and comprehensive plans, as provided in chapter 36.70A RCW; and the
    - iv. National Flood Insurance Program.

3. Assure that flood hazard protection measures do not result in a net loss of ecological functions associated with the rivers and streams.
4. Plan for and facilitate returning river and stream corridors to more natural hydrological conditions. Recognize that seasonal flooding is an essential natural process.
5. When evaluating alternate flood control measures, consider the removal or relocation of structures in flood-prone areas.
6. Plan for and facilitate removal of artificial restrictions to natural channel migration, restoration of off channel hydrological connections and return river processes to a more natural state where feasible and appropriate.

### **SHORELINE DESIGNATIONS**

Shoreline Designations are intended to encourage uses and activities that will protect or enhance present or desired character of the shoreline and critical areas within shorelines and allow appropriate uses consistent with local land use patterns. Tonasket's original Shoreline Master Program (SMP) was adopted in 1991. It used a classification system composed of four Shoreline Designations intended to accommodate different levels and types of development: "Natural", "Conservancy", "Rural", "Suburban", and "Urban."

The State's 2004 SMP guidelines recommend a new classification system to better reflect the most current scientific and technical information, planning concepts and to support requirements of the Growth Management Act (GMA). Tonasket used the State's new classification system as a starting point and tailored it to suit local conditions, local interests, and local land use planning. The result is a system that includes six Shoreline Designations intended for application to all shoreline areas within the incorporated and adopted Urban Growth Area (except within the boundaries of the Colville Indian Reservation).

The Shoreline Designation system in this section of the Land Use Element of the Tonasket Comprehensive Plan is based on a combination of factors including ecological function and value, existence of designated critical areas, development patterns and long-range planning factors, and local interests. The designations reflect the combined results from the inventory, analysis and characterization along with input gathered through the public participation process.

The assessment of ecological function and value was derived from the Shoreline Characterization prepared by ENTRIX, Inc., incorporated as Appendix A.

Development and Planning factors are a function of:

- Development Patterns (parcel size and level of subdivision)
- Current land use
- Existing Building Setbacks and Number of Structures
- Public Access and Recreation
- Transportation/Circulation systems/facilities
- Current Comprehensive Plans and Zoning maps
- Local Knowledge (input from SAG and TAG + staff and consultants)

- Ownership Patterns
- Other built elements (Over-water Structures, levees, dikes)

The following section describes the criteria used to assign Shoreline Designations to water bodies (the classification criteria), lists specific policies and regulations that apply to each designation, and explains the rationale for each designation. Finally, the text describes the process used to assign designations to the shorelines in Tonasket. Allowed uses and development standards for each designation follow in tabular form with policies specific to each designation and the general policies provide the basis for the uses and activities allowed in each shoreline designation. The development standards and criteria specify how and where permitted development can take place within each shoreline designation.

It is important to note that all lands within shoreline jurisdiction, regardless of designation, have inherent resource, ecological and economic value. Therefore, a natural tension exists between opportunities for protection and development. The SMA requires ecological functions and processes to be retained in all shoreline designations. Where changes in land use or development result in a loss of function and values, those losses must be mitigated.

Parallel shoreline designations may be used where appropriate—for example, to accommodate resource protection close to the ordinary-high-water-mark (OHWM) and development farther from the OHWM. Where parallel designations exist, developments and uses allowed in one of the designations should not be inconsistent with achieving the purposes of the other. The width of each designation may vary depending on the type, extent, and value of the resource to be protected; in all cases the designation closest to the shore shall extend at least to the closest boundary line, easement line and/or 15 feet inland from the OHWM. For future shoreline amendments in all cases the designation closest to the shore should maintain a structural setback/vegetation conservation area at least as wide as the minimum width allowed by the current Ecology approved shoreline designation. Any applicant proposing widths less than this should provide the City an analysis in compliance with WAC 173-26-201.

This Shoreline Master Program establishes a system of five shoreline designations for all shoreline areas within the incorporated areas and adopted Urban Growth Area. The system was derived from the State’s recommended classification system, tailored to reflect local conditions and serve local interests. The default designation for undesignated shorelines in the City is Urban Conservancy.

### **Aquatic Designation**

The purpose of this designation is to protect, restore, and manage the unique characteristics and resources of areas waterward of the ordinary high-water mark (OHWM).

#### Designation Criteria

1. All water areas waterward of the OHWM of rivers, lakes and streams and associated wetlands should be designated “Aquatic.”

#### Policies

1. Developments within the Aquatic Designation should be compatible with the adjoining upland designation.
2. Diverse opportunities for public access to the water should be encouraged and developed where such access is compatible with the existing shoreline and water uses and

environment.

3. Over-water structures should be allowed only for water-dependent uses, public access, or ecological restoration. The size of such structures should be limited to the minimum necessary to support the structure's intended use. Structures that are not water-dependent should be prohibited.
4. Multiple-use of over-water facilities should be encouraged.
5. Under-water uses should be designed, developed, operated and mitigated with the least possible impact to the aquatic environment and should show that there is no feasible above water alternatives.
6. Aquaculture should be allowed where the use can be undertaken without interfering with surface navigation, public access, or shoreline ecological functions.
7. Hydroelectric projects of regional or statewide significance (including development of new hydroelectric projects, renovation of existing hydroelectric facilities, and operation of existing hydroelectric projects) should be allowed where impacts to surface navigation, public access, shoreline ecological functions, and the visual quality of the shoreline area can be adequately mitigated.
8. Fishing and other recreational uses of the water should be protected against competing uses that would interfere with recreation.
9. All developments and activities under the jurisdiction of this Section and Chapter 18.08 TMC should be located and designed to minimize interference with surface navigation. Hydroelectric projects licensed by the Federal Energy Regulatory Commission should provide for portage consistent with project operations, safety, and security of the project facilities.
10. All developments and activities using water bodies under the jurisdiction of this portion of the Land Use Element of the Tonasket Comprehensive Plan and Chapter 18.08 TMC should be located and designed to minimize adverse visual impacts and to allow for the safe passage of fish and animals (consistent with federal and state agency approved recovery plans), particularly those whose life cycles are dependent on such migration. Hydroelectric projects licensed by the Federal Energy Regulatory Commission should address visual impacts and fish and wildlife passage while at the same time providing for project operations, safety, and security of the project facilities.
11. Uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
12. Abandoned and neglected structures that cause adverse visual impacts or are a hazard to public health, safety, or welfare should be removed or restored to a usable condition consistent with the provisions of portion of the Land Use Element of the Tonasket Comprehensive Plan and Chapter 18.08 TMC.
13. Activities that substantially degrade priority habitats should not be allowed. Where such activities are necessary to achieve the objectives of the Shoreline Management Act, RCW 90.58.020, impacts should be mitigated to provide a net gain of critical ecological functions.
14. Shoreline modifications should be considered only when they serve to protect or enhance a significant, unique, or highly valued feature that might otherwise be degraded or

destroyed. Exceptions may be made for hydroelectric projects licensed by the Federal Energy Regulatory Commission. Such projects should be located and designed to minimize impacts to shoreline functions and values.

15. Shoreline jurisdictional areas within the Aquatic Designation should not be used for calculating land area for the purposes of subdivision and short subdivision.

### **Urban Conservancy**

The purpose of this designation is to protect and restore ecological functions of open space, floodplains, and other sensitive lands within the City and Urban Growth Area, while allowing a variety of compatible uses.

#### Designation Criteria

1. Areas suitable and planned primarily for public uses that are compatible with maintaining or restoring the ecological functions of the area, and are not generally suitable for water-dependent uses, if any of the following characteristics apply:
2. They are suitable for water-related or water-enjoyment uses;
3. They are public owned open space, flood plain or other critical areas that may be suited for low levels of development associated with water-related or water-enjoyment uses but are unsuitable for high intensity development;
4. They have potential for ecological restoration;
5. They retain important ecological functions (such as riparian or wetland habitat, buffers, stormwater and wastewater abatement, and open space— e.g. designated critical areas) even though partially developed; or
6. Existence of critical areas.

#### Policies

1. Uses that preserve the natural character of the area or promote preservation of open space, floodplain, or sensitive lands, either directly or over the long term, should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment, the setting, and the local comprehensive plan and development regulations.
2. The following uses should be allowed in shoreline areas designated as “Urban Conservancy”, where consistent with local comprehensive plans and development regulations, provided that the use is consistent with maintaining or restoring the ecological functions of the area: aquaculture; low-intensity water-oriented commercial and industrial uses, where those uses already exist; water-dependent and water-enjoyment recreational facilities; residential development.
3. Mining and associated uses should be allowed on lands that are designated as “mineral resource lands” pursuant to RCW 36.70A.170 and WAC 365-190-070. Otherwise resource extraction should not be allowed.
4. Water-oriented uses should be given priority over non-water oriented uses.
5. Adjacent to the shoreline waters, water-dependent uses should be given the highest priority.
6. Opportunities for public access, including developed trails, overlooks and viewing



platforms, etc., to shorelines and water bodies should be encouraged for all developments, including subdivisions, short subdivisions, planned developments, commercial uses, public services, and recreational uses.

7. Public or community access to shorelines and water bodies should be required for new subdivisions of more than four lots and for recreational uses, provided any adverse impacts can be mitigated.
8. Public access to shorelines and water bodies should be required for new commercial uses and public services where it can be accommodated without risk to public safety, provided any adverse impacts can be mitigated.
9. Public and private recreational facilities and uses that are compatible with residential uses should be encouraged, provided that no net loss of shoreline ecological resources will result.
10. Standards to ensure that new development does not result in a net loss of shoreline ecological functions or further degradation of shoreline values should be established for shoreline stabilization measures, vegetation conservation, and shoreline modifications.
11. Subdivision should be allowed in shoreline areas designated as “Urban Conservancy.”

### **Shoreline Recreation**

The purpose of the Shoreline Recreation designation is to accommodate mixed-use recreation-oriented development that is consistent with the goals and purpose of the Shoreline Management Act; and to provide appropriate public access and recreational uses, especially where those uses are part of a master-planned system and support healthy physical activity.

#### Designation Criteria

1. This designation is assigned to shoreline areas that support or are planned for mixed-use recreation oriented development. The designation is intended to provide flexibility for water oriented mixed-use planned or clustered development with varying densities.

#### Policies

1. The following uses should be allowed in shoreline areas designated as “Shoreline Recreation”, where consistent with local comprehensive plans and development regulations, provided that the use is consistent with maintaining or restoring the ecological functions of the area: residential development; public access and recreational uses; water-oriented mixed-use development; master-planned resorts, and other development consistent with preservation of low-density, recreation-oriented character.
2. Dedication and improvement of public access to shorelines should be required for all new uses, with the exception of residential developments of four lots or fewer, including development by public entities (including local governments, state agencies, and public utility districts). Where a master-planned public access system, such as a river front trail system, exists or is planned, participation in the system and provision of facilities that promote physical activity should be encouraged.
3. All multi-family and multi-lot residential developments should provide joint-use community recreational facilities.
4. Docks, boat ramps, boat lifts, and other boating facilities serving individual single-family residences should be prohibited. Where boating facilities are allowed, community

facilities should be required.

5. The number of boating facilities allowed within the SRec designation on each water body should be limited to protect shoreline ecological resources and preserve the character of the shoreline area.
6. Mixed-use water-oriented recreational/residential developments should be encouraged in the SRec designation where such developments are consistent with zoning and comprehensive plan designations and can be accommodated without damage to shoreline ecological resources.
7. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical areas protection, and water quality should be set to ensure that new development does not result in a net loss of shoreline ecological functions. Such standards should take into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and other services available, and other comprehensive planning considerations.
8. Adequate public facilities and services should be required in conjunction with development in the SRec designation. Within the Urban Growth Area, such development should be required to connect to municipal water and sewer utilities. Outside of the Urban Growth Area, private community utility systems may be allowed. Concurrent development of transportation facilities, including facilities to promote physical activity, should be required.
9. Subdivision should be allowed in shoreline areas designated as “Shoreline Recreation.”

### **Shoreline Residential**

The purpose of the Shoreline Residential designation is to accommodate residential development and appurtenant structures that are consistent with the goals and purpose of the Shoreline Management Act; and provide appropriate public access and recreational uses.

#### Designation Criteria

1. This designation is assigned to shoreline areas within the City and Urban Growth Area that support a predominance of single-family residential development with some duplex and multi-family, are platted for residential development, or are planned for residential development exceeding 1 dwelling unit per acre.

#### Policies

1. The following uses should be allowed in shoreline areas designated as “Shoreline Residential”, where consistent with local comprehensive plans and development regulations, provided that the use is consistent with maintaining or restoring the ecological functions of the area: residential development (including both single and multi-family development); water-oriented commercial uses.
2. Residential developments of more than four lots and all recreational developments should provide public access to shorelines and water bodies. Opportunities for public access to shorelines and water bodies should be encouraged for all other developments, including subdivisions, planned developments, commercial uses, and public services.
3. All multi-family and multi-lot residential developments should provide joint-use community recreational facilities.

4. Docks, boat ramps, boat lifts, and other boating facilities serving individual single-family residences should be prohibited. Where boating facilities are allowed, community facilities should be required.
5. Public and private recreational facilities and uses that are compatible with residential uses and with the applicable comprehensive plan and development regulations should be allowed.
6. Access (including transportation facilities and rights of way or easements), utilities, and public services should be available and adequate to serve any existing needs and planned future development.
7. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical areas protection, and water quality should be set to ensure that new development does not result in a net loss of shoreline ecological functions. Such standards should take into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and other services available, and other comprehensive planning considerations.
8. Subdivision should be allowed in shoreline areas designated as “Shoreline Residential.”

### **High Intensity**

The purpose of the High Intensity designation is to provide for high-intensity water- oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded and are planned for such uses.

#### Designation Criteria

1. Shoreline areas within the City and Urban Growth Area should be designated “High Intensity” if they currently support high-intensity uses related to commerce, transportation, or navigation; or are suitable or planned for high-intensity water- oriented uses, including multi-family residential development.

#### Policies

1. Although they are the most heavily developed shoreline lands in Tonasket, High Intensity lands retain resource value and present limited opportunities for protection and restoration.
2. Because shorelines are a finite resource and because high-intensity uses tend to preclude other shoreline uses, emphasis should be given to directing new development into areas that are already developed or where high-intensity uses can be developed consistent with this master program and the applicable Comprehensive Plan, and to uses requiring a shoreline location. Full utilization of existing high-intensity areas should be encouraged before further areas are designated as High Intensity.
3. Priority should be given to water-dependent, water-related, and water-enjoyment uses over other uses, with highest priority given to water-dependent uses. Uses that derive no benefit from a water location should require a shoreline conditional use permit.
4. Where consistent with other policies and with local comprehensive plans and development regulations, the following uses should be allowed in shoreline areas designated as “High Intensity”, provided that the use is consistent with maintaining or restoring the ecological functions of the area: water-oriented commercial uses,

transportation, navigation, and other high-intensity water-oriented uses, including multi-family residential development.

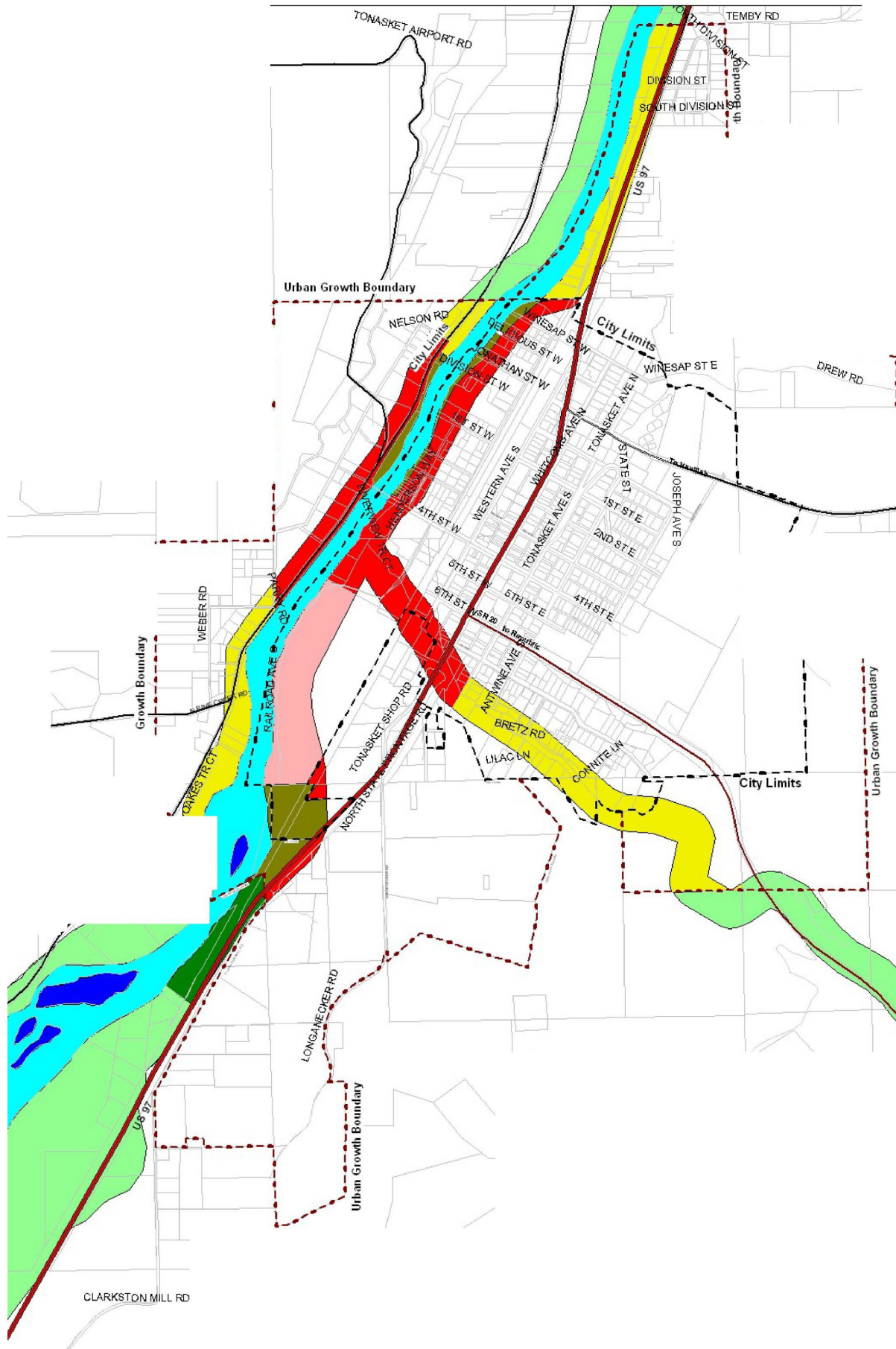
5. Visual public access should be required, where feasible.
6. Physical public access should be encouraged where it can be accommodated without risk to public safety.
7. Aesthetic objectives should be implemented by means such as sign control regulations; appropriate development siting, screening and architectural standards; and maintenance of natural vegetative buffers.
8. Implementation of local plans for acquisition or use through easements of land for permanent public access to the water in the High Intensity Designation should be encouraged.
9. In order to make maximum use of the available shoreline resources and to accommodate future water-oriented uses, the redevelopment and renewal of substandard, degraded, under-used, or obsolete urban shoreline areas should be encouraged.
10. Subdivision should be allowed in shoreline areas designated as “High Intensity.”

### **SHORELINES DESIGNATION MAP**

The Shoreline Designations Map for the city of Tonasket shows the areas under the jurisdiction of this Master Program and the boundaries of the six shoreline designations. Shoreline areas within the Urban Growth Area have been pre-designated—that is, the shoreline designations shown in Urban Growth Areas are those that have been assigned by the city.

The Shoreline Designations Map shall be the official map of Shoreline Designations and is maintained by the City and by the Department of Ecology. Any other copies, including copies that may be distributed either as part of this Element or separately, shall be unofficial.

Map III-10 Shoreline Designations for the city of Tonasket is found in the Map Appendix to the Comprehensive Plan.



**CHAPTER 18.08**  
**TONASKET**  
**SHORELINE MASTER PROGRAM**

**Sections**

- 18.08.010 Purpose**
- 18.08.020 Applicability**
- 18.08.030 General Provisions**
- 18.08.040 Definitions**
- 18.08.050 Exemptions**
- 18.08.052 Shoreline Substantial Development Permits**
- 18.08.054 Conditional Use Permits**
- 18.08.056 Variances**
- 18.08.060 General Regulations**
  - A. General
  - B. Clearing and Grading
  - C. Fill
  - D. Non-Wetland Setbacks and Buffers
  - E. Vegetation Conservation
- 18.08.070 Use and Designation Specific Regulations**
  - A. Accessory Utilities
  - B. Agriculture
  - C. Aquaculture
  - D. Archaeological, Cultural, Educational, Historic and Scientific Resources
  - E. Boating Facilities
  - F. Bulkheads
  - G. Commercial Uses and Activities
  - H. Flood Hazard Prevention Projects
  - I. Dredging and Dredge Material Disposal
  - J. Industrial Uses and Activities
  - K. Mining Uses and Activities
  - L. Municipal Uses (includes all local governments)
  - M. Parking
  - N. Public Access (physical and visual)
  - O. Utilities
  - P. Recreation
  - Q. Residential Development
  - R. Signage
  - S. Shoreline Stabilization
  - T. Transportation
- 18.08.080 Critical Areas in Shoreline Jurisdiction**
  - A. General
  - B. Aquifer Recharge Areas
  - C. Flood Hazard Areas
  - D. Fish & Wildlife Habitat Conservation Areas
  - E. Geologically Hazardous Areas
  - F. Wetlands

| ~~NEW~~ Chapter 18.08 TMC – Shorelines Regulation

- 18.08.090**     **Shoreline Designations Map**
- 18.08.100**     **Non-Conforming Structures**
- 18.08.105**     **Non-Conforming Uses**
- 18.08.110**     **Non-Conforming Lots**
- 18.08.115**     **Violations and Penalties**
- 18.08.120**     **Unauthorized Wetlands Alterations and Enforcement**

### **18.08.010 Purpose**

The purpose of this Chapter is to regulate development in shoreline areas as required by the Shoreline Management Act, as it now exists or hereinafter amended, to protect these areas and their functions and values in a manner that also allows reasonable use of private property. This chapter is intended to:

- A.** Implement the Tonasket Comprehensive Plan and the requirements of the Shoreline Management Act;
- B.** Protect shoreline areas, in accordance with the Shoreline Management Act and through the application of the goals and policies in the Comprehensive Plan and implementation of the regulations contained herein in consultation with state and federal agencies and other qualified professionals;
- C.** Protect the general public, resources and facilities from injury, loss of life, property damage or financial loss due to flooding, erosion, landslides, or steep slopes failure within the shoreline area;
- D.** Protect unique, fragile and valuable elements of the shoreline environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats;
- E.** Prevent cumulative adverse environmental impacts within the shoreline area to water quality and availability, wetlands, and fish and wildlife habitat;
- F.** Provide flexibility and attention to site specific characteristics, so as to ensure reasonable use of property; and
- G.** Provide appropriate guidance and protection measures for addressing the needs and concerns associated with shorelines areas that help define the quality of life in Tonasket.

### **18.08.020 Applicability**

These shoreline regulations shall apply as an overlay to zoning and other land use regulations established by the city. Critical Areas lying within the shoreline area, shall comply with the regulations established herein.

- A.** All land uses and/or development permit applications on all lots or parcels within the city that lie within shoreline jurisdiction as designated in the City of Tonasket Comprehensive Plan (See Shorelines Section and Map A12 in the Map Appendix) shall comply with the provisions of this chapter. No action shall be taken by any person that results in any alteration of any shoreline area except as consistent with the purposes, objectives and intent of this chapter.
- B.** These shoreline regulations shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as locally adopted. Any conditions required pursuant to this chapter shall be included in the SEPA review and threshold determination.

### **18.08.30 General Provisions**

- A.** In the event of any conflict between these regulations and any other regulations, that which provides greater protection to shoreline area(s) shall apply. The provisions contained herein shall be the minimum requirements and shall be liberally interpreted to serve the purposes of this chapter.



B. References to the Tonasket Municipal Code (“TMC”), the Revised Code of Washington (“RCW”), the Washington Administrative Code (“WAC”), the city of Tonasket Comprehensive Plan (including maps, Addendums, and Appendices thereto), or to any other external law, rule, or regulation, will be considered a reference to the most-current version of each.

C. The Administrator shall be responsible for making interpretations of the meaning of the provisions of this Chapter in the event interpretations are required to give meaning to the provisions of this Chapter consistent with the purposed of this Chapter and to connect (a) any inaccurate internal cross-references; or (b) any external citations to laws or regulations.

D. This Chapter repeals and replaces any previously approved Tonasket Shoreline Master Program.

## ~~18.0820~~.040 Definitions

This chapter lists the official (legal) definitions of terms used in this Chapter. As used in this Chapter, unless the context requires otherwise, the following definitions and concepts apply:

### “A”

“**Act**” means Shoreline Management Act of 1971, Chapter 90.58 RCW, as amended.

“**Accessory structure or use**” see 17.04.010 TMC.

“**Accessory utility**” means local transmission and collection lines, pipes, and conductors associated with water, sewer, gas, telephone, cable-TV, or similar utilities, or with irrigation systems, and other similar facilities intended to serve a development or an individual use, including access roads and appurtenant structures necessary to facilitate the utility use.

“**Administrative Authority**” shall, in the context of these regulations, mean the city of Tonasket.

“**Administrator**” see 17.04.010 TMC.

“**Advertising devices**” see 17.04 TMC.

“**Agriculture**” see 17.04.010 TMC.

“**Agricultural Equipment**” and “**Agricultural Facilities**” See 17.04.010 TMC.

“**Agricultural Land**” means those specific land areas on which agriculture activities are conducted as of the date of adoption of this Chapter pursuant to these guidelines as evidenced by aerial photography or other documentation.

“**Agricultural Products**” See 17.04.010 TMC.

“**Animal feeding operation**” or “**AFO**” See 17.04.010 TMC.

“**Appurtenance**” means development that is necessarily connected to the use and enjoyment of single family residences and is located landward of the OHWM and/or the perimeter of a wetland. Appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield and grading which does not exceed the threshold established in local

SEPA or building regulations, whichever is less, and which does not involve placement of fill in any wetland, floodway, floodplain or waterward of the ordinary high water mark.

“**Associated Wetlands**” is synonymous with “**wetlands**” or “**wetland areas**” means wetlands that are in proximity to, lakes, rivers or streams that are subject to the SMA and either influence or are influenced by such waters. Factors used to determine proximity and influence include, but are not limited to: location contiguous to a shoreline waterbody, formation by tidally influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

“**Aquifer Recharge Area**” see 18.06 TMC.

“**Aquaculture**” Aquaculture is the culture or farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery. is the farming of aquatic organisms including fish, mollusks, crustaceans and aquatic plants. Farming implies some sort of intervention in the rearing process to enhance production, such as regular stocking, feeding, protection from predators and so forth. Aquaculture is dependent on the use of the water area and, when consistent with control of pollution and prevention of damage to the environment, is a preferred use of the water area.

“**Archaeological resource/site**” means archaeological and historic resources that are either recorded at the state historic preservation office and/or by local jurisdictions or have been inadvertently uncovered, are located on city of Tonasket shorelands and, including, but not limited to, submerged and submersible lands and the bed of the rivers within the state’s jurisdiction, that contains archaeological objects. Archaeological sites located both in and outside shoreline jurisdiction are subject to chapter 27.44 RCW (Indian graves and records) and chapter 27.53 RCW (Archaeological sites and records) and development or uses that may impact such sites shall comply with chapter 25-48 WAC as well as the provisions of this chapter. “Significant” is that quality in American history, architecture, archaeology, engineering, and culture that is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of significant persons in our past; or
- C. That embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That has yielded or may be likely to yield, information important in history or prehistory.

“**Average Grade Level**” See 17.04.010 TMC.

**“B”**

“**Bed and breakfast**” see 17.04.011 TMC.

“**Best Available Science**” see 18.06 TMC.

“**Best management practices**” see 17.04.011 TMC.

“**Boating facilities**” means developments and uses that support access to shoreline waters for purposes of boating.

“**Building (structure)**” see 17.04.011 TMC.

“**Buffer**” see 17.04.011 TMC.

“**Buffer, Shoreline Use (Zone 2)**” means an area that is contiguous to and protects a critical area that is required for the continued maintenance, functioning, and/or structural stability of a critical area.

“**Buffer, Shoreline Vegetation (Zone 1)**” means the vegetation area adjacent to a shoreline that separates and protects the shoreline aquatic area from adverse impacts associated with adjacent land uses.

“**Buffer, Wetland**” means the vegetation area adjacent to a wetland that separates and protects the wetland aquatic area from adverse impacts associated with adjacent land uses.

“**Bulkhead**” A structure erected generally parallel to and near the OHWM for the purpose of protecting adjacent uplands from waves or current action.

“**Bulk storage**” see 17.04.011 TMC.

### “C”

“**CAFO**” see 17.04.012 TMC.

“**Campground (RV park)**” see 17.04.012 TMC.

“**CARA**” means Critical Aquifer Recharge Area.

“**Channel migration zone (CMZ)**” means the area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings.

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

“**Commercial use**” see 17.04.012 TMC.

“**Community boating facilities**” including ~~docks~~, piers, ramps, etc., are typically designed and constructed to serve all or a significant component of the members of a residential development; which typically include waterfront property owners and often include non-water front property owners. A homeowner’s association usually owns a shoreline tract(s) or easement (s) providing for the potential placement of the facilities; and is responsible for the ownership and maintenance of the facilities. Where the shoreline is owned by a public entity and the entity has authorized the facilities, then the multiple upland property owners of a residential development would also be considered community boating facilities.

~~“**Community joint use recreational dock**” means a dock intended for the common use of the residents of adjoining parcels or subdivision, shore subdivision, or community located on adjacent uplands. A community joint use recreational dock shall not be a commercial endeavor and shall not for the purpose of serving the public.~~

“Critical Areas” see 18.06 TMC.

“Critical Areas Report” see 18.06 TMC.

“Cumulative Impacts” see 17.04.012 TMC.

**“D”**

“Density” see 17.04.013 TMC.

“Development” means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters of the state subject to Chapter 90.58 RCW at any stage of water level. ~~“Development” does not include dismantling or removing structures if there is no other associated development or re-development. (RCW 90.58.030(3)(d).)~~

Commented [MOU1]: [COMMENT 5 – PR 2017(b)] – No action required; but consider adding sentence.

“Development regulations” 17.04.013 TMC.

“Dike” means an artificial embankment or revetment normally set back from the bank or channel in the floodplain for the purpose of keeping floodwaters from inundating adjacent land.

~~“Dock” means all platform structures or anchored devices in or floating upon water bodies to provide moorage for pleasure craft or landing for water dependent recreation including but not limited to floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch ramps.~~

~~A. Private docks—over water structures are constructed and utilized for private moorage by a single residential waterfront property owner; or an upland property owner adjacent to publicly owned shoreline where the public entity has authorized the placement of a private dock. Joint use docks—are constructed and utilized by two or more contiguous residential waterfront property owners. Joint use dock facilities may also serve one waterfront property owner and one or more contiguous upland property owners; or may consist of two or more upland property owners adjacent to publicly owned shoreline, where the public entity has authorized the placement of a joint use dock.~~

~~B. Community docks—are typically designed and constructed to serve all or a significant component of the members of a residential development; which typically include waterfront property owners and often include non water front property owners. A homeowner’s association usually owns a shoreline tract(s) or easement (s) providing for the potential placement of the dock facilities; and is responsible for the ownership and maintenance of the facilities. Where the shoreline is owned by a public entity and the entity has authorized dock facilities, the dock facilities for multiple upland property owners of a residential development would also be considered community dock facilities.~~

~~C. Public docks—are constructed and utilized for use by the general public, typically owned and managed by a public agency and may include a boat ramp.~~

“Dredge material disposal” means the disposal of material excavated waterward of the ordinary high watermark according to the DNR disposal procedures manual.

“Dredging” means the removal, displacement, and disposal of unconsolidated earth material such as silt, sand, gravel, or other submerged material from the bottom of water bodies or from wetlands.

“**Multi-unit dwelling**” see 17.04.013 TMC.

“**Single-unit dwelling**” see 17.04.013 TMC.

“**Dwelling unit**” see 17.04.013 TMC.

### “E”

“**Ecological functions**” or “**shoreline functions**” means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC 173-26-201 (2)(c).

“**Ecological restoration and/or enhancement**” means an intentional activity that initiates, accelerates, or intended to recover ecosystem functions with respect to its health, integrity and sustainability. The practice of ecological restoration and/or enhancement includes a wide scope of projects including, but not limited to: erosion control, reforestation, removal of non-native species and weeds, revegetation of disturbed areas, daylighting streams (e.g. culvert/pipe removal, bring an artificially underground stream to the surface), reintroduction of native species, as well as habitat and range improvement for targeted species.

“**Ecologically intact**” shorelines, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies.

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

“**Emergency**” see 17.04.014 TMC.

“**Emergency construction**” is construed narrowly as that which is necessary to protect property from the elements (RCW 90.58.030(3eiii)).

“**Exempt, Single –Family**” see “Residential Development”

“**Exempt, substantial development**” means any development of which the total cost or fair market value, whichever is higher, does not exceed ~~six thousand four hundred sixteen dollars (\$6,416)~~ ~~(\$6,416)~~ <sup>\$8504</sup><sup>1</sup> or dollar value as amended by the State of Washington Office of Financial Management, if such development does not materially interfere with the normal public use of the water or shorelines of the state, and any development which does meet the definition of substantial development contained herein.

“**Experimental aquaculture**” means an aquaculture project that uses methods or technologies that are unprecedented or unproven in the State of Washington.

### “F”

1 - dollar value as of ~~July 1, 2022~~ ~~September 15, 2012~~.

Commented [MOU2]: [COMMENT 4 – PR 2017(a)] – No action required; should probably update to include correct number of \$8,504 instead of \$6,416.

**“Fair Market Value”** of a development is the expected price at which the development can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, dumping or filling, the fair market value is the expected cost of hiring a contractor to perform the operation or where no such a value can be calculated, the total of labor, equipment used, transportation, and other costs incurred for the duration of the permitting project.

**“Feasible”** means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

- A. The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
- B. The action provides a reasonable likelihood of achieving its intended purpose; and
- C. The action does not physically preclude achieving the project's primary intended legal use. In cases where this Chapter requires certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the City may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

**“Feedlot”** see 17.04.015 TMC.

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

**“Fish and Wildlife Habitat Conservation Areas”** see 18.06 TMC.

**“Floats”** means a detached, anchored structure that is free to rise and fall with water levels including any floating, anchored platform or similar structure, used for boat mooring, swimming or similar recreational activities that is not anchored or accessed directly from the shoreline.

**“Flood control works”** means all development on rivers and streams designed to retard bank erosion, to reduce flooding of adjacent lands, to control or divert stream flow, or to create a reservoir, including but not limited to revetments, dikes, levees, channelization, dams, vegetative stabilization, weirs, flood and tidal gates. Excluded are water pump apparatus.

**“Floodplain”** see 18.06 TMC.

**“Floodplain management”** means a long-term program to reduce flood damages to life and property and to minimize public expenses due to floods through a comprehensive system of planning, development regulations, building standards, structural works, and monitoring and warning systems.

**“Floodway”** means the area that has been established in federal emergency management agency flood insurance rate maps or floodway maps.

**“Frequently Flooded Area”** see 18.006 TMC.

**“Frontage, shoreline”** is the distance measured along the ordinary high-water mark.

**“Future Flow Floodplain”** means the channel of the stream and that portion of the adjoining flood plain that is necessary to contain and discharge the base flood flow at build out without any measurable increase in flood heights.

Commented [MOU3]: [COMMENT 23 – PR 2007(a)] – No action required.

## “G”

“**Geologically Hazardous Areas**” see 18.06 TMC.

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

“**Grade**” see 17.04.016 TMC.

“**Grading**” see 17.04.016 TMC.

“**Guest House**” see 17.04.016 TMC.

“**Guidelines**” means the State of Washington’s adopted Shoreline Master Program Guidelines (WAC 173-26, as amended).

## “H”

“**Habitat**” see 18.06 TMC.

“**Hard shoreline stabilization**” means shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion including but not limited to, bulkheads, rip-rap, jetties, groins, breakwaters, and stone reinforcement.

“**Height, building**” means the distance measured from average grade level to the highest point of a structure: Provided, that television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or this Chapter specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.

“**Historic Site**” see 17.04.017 TMC.

“**Hotel**” see 17.04.017 TMC.

## “I”

“**Industrial use**” see 17.04.018 TMC.

“**Inns, Lodges and Guest Ranches**” see 17.04.018 TMC.

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

## “L”

“**Landfill**” see 17.04.021.

“**Land Use, High Impact**” “**High Intensity Land Use**” see 17.04.21 TMC.

“**Land Use, Low Impact**” see 17.04.21 TMC.

“**Land Use Medium Impact**” see 17.04.21 TMC.

“**Large Woody Debris**” or “**LWD**” means all wood greater than four inches (4”) in diameter naturally occurring or artificially placed in streams, including, branches, stumps, logs and logjams.

“**Litter container**” see 17.04.21 TMC.

“**Lot Coverage, shoreline**” means that portion of a lot which, when viewed directly from above, would be covered by building(s) and/or structure(s) and/or impervious surfaces. The portion of the lot covered by the roof projection or eaves beyond the wall of the building(s) and/or structure(s), is not included as lot coverage in shoreline areas.

“**Lot Width**” see 17.04.021 TMC.

## “M”

“**Manure lagoon**” see 17.04.023 TMC.

“**May**” means an action is acceptable, provided it conforms to the provisions of this Chapter.

“**Must**” means an action is required.

“**Manufacturing, Heavy**” see 17.04.022 TMC.

“**Manufacturing, Light**” see 17.04.022 TMC.

“**Mineral Resource Lands**” see 18.06 TMC.

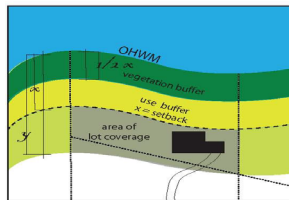
“**Mineral extraction**” means the removal of topsoil, gravel, rock, clay, sand or other earth material, including accessory activities such as washing, sorting, screening, crushing and stockpiling. Not included is the leveling, grading, filling, or removal of materials during the course of normal site preparation for an approved use (e.g., residential subdivision, commercial development, etc.) subject to the provisions of this Program.

“**Mineral prospecting**” see 17.04.022 TMC.

“**Mining**” see 17.04.022 TMC.

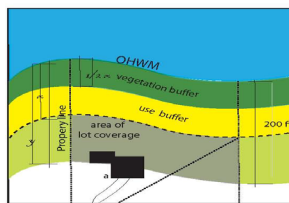
“**Mitigation**” see 18.06 TMC.

“**Mitigation plan**” means a written report or authorization (by a state or federal agency) prepared by a qualified professional identifying environmental goals and objectives of the compensation proposed and including:



**Lot Coverage regulations apply to the area landward of the setback**

Generic example of lot wholly within shoreline with setback, use buffer and vegetation buffer lines, and area where lot coverage standards apply



a. Example of lot partially within shoreline depicting: building setback, use buffer, vegetation buffer, and area where lot coverage standards apply



- A. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the mitigation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site mitigation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
- B. A review of the most current, accurate, and complete scientific and technical information supporting the proposed mitigation and a description of the report author’s experience to date in restoring or creating the type of critical area proposed; and
- C. An analysis of the likelihood of success of the compensation project.
- D. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Title have been met.
- E. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as: The proposed construction sequence, timing, and duration; Grading and excavation details; Erosion and sediment control features; A planting plan specifying plant species, quantities, locations, size, spacing, and density; and Measures to protect and maintain plants until established. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

“**Mixed use development**” means a combination of uses within the same building or site as a part of an integrated development project with functional interrelationships and coherent physical design. Mixed use developments must include a water dependent use(s) and provide a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration, except as provided for in WAC 173-26-241(3)(d).

“**Monitoring**” see 17.04.022 TMC.

“**Multi-family dwelling (residence)**” see 17.04.022 TMC.

“**Municipal uses**” see 17.04.022 TMC.

“**N**”

“**Natural Resource Lands**” see 18.06 TMC.

["Nonconforming development" or "nonconforming structure" means an existing structure that was lawfully constructed at the time it was built but is no longer fully consistent with present regulations such as setbacks, buffers or yards; area; bulk; height or density standards due to subsequent changes to the master program.](#)

["Nonconforming Lot, shoreline" means a lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth or area due to subsequent changes to the master program.](#)

["Nonconforming Structure, shoreline \(legal\)" means an existing shoreline use that was lawfully established prior to the effective date of the act or the applicable master program, but which does not conform to present use regulations due to subsequent changes to the master program.](#)  
~~means an existing structure built in conformance with the requirements in place at the~~

Commented [MOU4]: [COMMENT 10 – PR 2017(g)] - No action required; consider adding definition since used in SMP.

~~time of construction or prior to the effective date of the adoption of this Chapter that could not be built under the terms of this Chapter or any amendment thereto.~~

**“Nonconforming Use, shoreline”** means an existing use allowed in conformance with the requirements in place at the time of initiation or prior to the effective date of the adoption of this Chapter that could not be built under the terms of this Chapter or any amendment thereto.

**“Non-exempt single-family residence”** see “Residential development”

**“Non-structural shoreline stabilization”** means areas and activities including building setbacks, ground water management, and planning and regulatory measures to avoid the need for structural stabilization, vegetation stabilization and bioengineered stabilization.

**“Non-water-oriented use”** means a use that is not a water-dependent, water-related, or water-enjoyment use.

**“Normal maintenance”** means those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

**“Normal protective bulkhead”** means those structural and nonstructural developments installed at or near, and parallel to, the ordinary high-water mark for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion.

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

### “O”

**“OFM”** means the Office of Financial Management of the State of Washington.

**“Official Map of Shorelines”** means all maps adopted as part of the Shoreline Section of the City of Tonasket Comprehensive Plan and this Chapter delineating the geographic boundaries of all designated water bodies in Tonasket coming under the jurisdiction of the Shoreline Management Act of 1971.

**“Open Space”** see 17.04.024 TMC.

**“Ordinary high water mark”** means on all lakes, streams, and tidal water, that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water.

**“Over-water structures”** means any structure located waterward of the OHWM. Common examples include, but are not limited to, ~~docks,~~ piers and bridges.

### “P”

**“Permit”** see 17.04.025 TMC.

“**Person**” see 17.04.025.

“**Placer mining**” see 17.04.025.

“**Primary utilities**” means transmission, collection, production, or treatment facilities that are generally regional or area wide in scope and provide the primary service to a large area and may or may not be connected directly to the uses along the shoreline. Utilities include primary transmission facilities related to a hydropower and communications, and distribution or collection systems for water, sewer mains, gas and oil pipelines, and wastewater and water treatment plants.

“**Priority Habitat**” see 18.06 TMC.

“**Priority Species**” see 18.06 TMC.

“**Provisions**” means policies, regulations, standards, guideline criteria or shoreline designations.

“**Public Access**” means the public's right to get to and use the State's public waters the water/land interface and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual access facilitated by means such as scenic roads and overlooks, viewing towers and other public sites or facilities.

“**Public Trust Doctrine**” means a legal principle derived from English Common Law. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses and that this trust is not invalidated by private ownership of the underlying land. The doctrine limits public and private use of tidelands and other shorelands to protect the public's right to use the waters of the state.

### “Q”

“**Qualified professional**” see 17.04.026 TMC.

### “R”

“**Recreation, low-intensity**” means recreation that does not require developed facilities other than unpaved trails and can be accommodated without change to the area or resource other than development of trails and placement of litter containers and directional and interpretive signs. Examples are hiking, shore fishing, and bicycling.

“**Recreational development**” see 17.04.027 TMC.

“**Recreational uses**” see 17.04.027 TMC.

“**Residential development**” means one or more buildings, structures or portions thereof that are designed and used as a place for human habitation. Included are single, duplex or multi-family dwellings, apartment/condominium buildings, mobile homes, short and long divisions of land and other structures that serve to house people:

- A. Exempt Single-Family Residential: Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence for his own use or the use of his family.
- B. Non-exempt single-family dwellings (e.g. seasonal or year-round rentals), development of a single-family unit not lived in by owner or his/her own family.

C. Multi-family Residential: can include duplex, 3 or more residential units, apartments, townhomes, and condominiums.

“Responsible Official” see 17.04.027 TMC.

“Restore”, “restoration” or “ecological restoration” see 18.06 TMC.

“Riparian Area” see 18.06 TMC.

“Riprap” means broken stone or other hardening material placed along the shoreline of a lake, river, or stream to prevent erosion or provide stability.

“S”

“Sanitary landfill” see 17.04.028 TMC.

“Seasonal” means a temporary use the duration of which is related to an identifiable climatic, cultural, or recreational period. (i.e., summer, winter, fall, spring, Christmas, ski season).

“Shoreline setback” means the required minimum distance between the Ordinary High-Water Mark and the outer-most vertical plane of any building, structure, device, fence, swimming pool, landscaped or graded area, or other improvement causing a disturbance to the natural landscape.

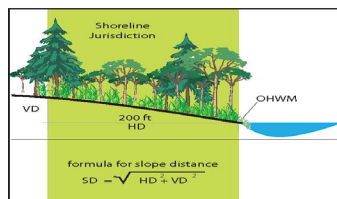
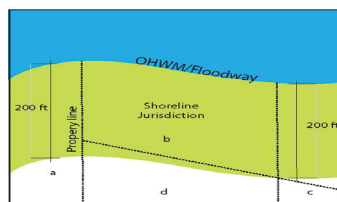
“Shoreline frontage” means the land measured in linear feet along the OHWM of a lake, river, or stream subject to this Chapter.

“Shoreline ecological function” see “Ecological function”

“Shoreline Jurisdiction” or “Shoreline Area” means that area lying within 200 feet on a horizontal plane from the OHWM and/or associated wetlands and/or floodway boundary of the Okanogan River, whichever is greater.

“Shoreline Master Program” or “SMP” means the Shoreline Section of the Land Use Element of the City of Tonasket Comprehensive Plan and Chapter 18.08 TMC and the use regulations together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.

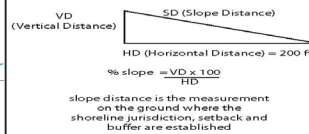
“Shoreline Modifications” means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.



**Shoreline Jurisdiction**

- a & d. Parcels partially within Shoreline Jurisdiction
- b. Parcel wholly within Shoreline Jurisdiction
- c. Parcel outside Shoreline Jurisdiction

Shoreline jurisdiction as measured on the horizontal from the ordinary high watermark



**“Shoreline permit”** means a shoreline substantial development permit, a shoreline conditional use, or a shoreline variance, or any combination thereof issued by Tonasket pursuant to RCW 90.58.

**“Shorelines”** means all of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except

- A. Shorelines of statewide significance;
- B. Shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and
- C. shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;

**“Shorelines of the State”** are the total of all "shorelines" and "shorelines of state-wide significance" within the state.

**“Shorelines of State-wide Significance”** in Tonasket means:

- A. The Okanogan River; and,
- B. Those wetlands associated with the river.

**“Shoreline of Tribal Significance”** means any Shoreline Area within the Colville Indian Reservation.

**“Short subdivision”** see 16.08.410 TMC.

**“Significant vegetation removal”** means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

**“Soft shoreline stabilization”** means shore erosion control and restoration practices using only plantings or organic materials to restore, protect or enhance the natural shoreline environment.

**“Solid waste”** see 17.04.028 TMC.

**“Special Event”** means any event (excluding those events allowed through the festival permitting process) that happens for more than three (3) consecutive days per event and no more than twice (2) a year.

**“Special Event Camping”** see 17.04.028 TMC.

**“Structural shoreline stabilization”** means shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion, examples include, bulkheads, concrete walls, rip-rap, jetties, groins, breakwaters, stone reinforcement.

**“Structure”** see 17.04.028 TMC.

**“Subdivision, Long”** see 16.08.450 TMC.

**“Substantial accessory use facilities”** Substantial accessory including but not limited to rest rooms, recreation halls and gymnasiums, commercial services, access roads, and parking areas associated with recreational development.

**“Substantial development”** shall mean any development of which the total cost or fair market value exceeds ~~six thousand four hundred sixteen dollars (\$6,416)~~ ~~\$8,504~~<sup>2</sup> or dollar value as amended by the State of Washington Office of Financial Management, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

**Commented [MOU5]:** [COMMENT 4 – PR 2017(a)] – No action required; should probably update to include correct number of \$8,504 instead of \$6,416.

**“Substantially degrade”** means cause significant ecological impact.

**“T”**

**“Temporary”** see 17.04.029 TMC.

**“Temporary sign”** 17.04.029 TMC.

**“Temporary Use”** 17.04.029 TMC.

**“U”**

**“Upland”** means that when used as an adjective, means outside of the shoreline area.

**“Uplands”** means those lands outside of the shoreline area and not under shoreline jurisdiction.

**“Urban Growth Area”** means a boundary set in an attempt to control urban sprawl by encouraging the area inside the boundary to be used for higher density urban development and the area outside is used for lower density development.

**“Use (development)”** see 17.04.030 TMC.

**“V”**

**“Variance, shoreline”** An adjustment in the application of the bulk, height and setback regulations of this Chapter to a particular piece of property, in a situation where the property, because of special circumstances found to exist on the land, is deprived as a result of the imposition of the shoreline regulations of privileges commonly enjoyed by other properties in the same vicinity and shoreline designation. A variance shall be limited to only that adjustment necessary to remedy the disparity in privilege. A variance shall not be used to convey special privileges not enjoyed by other properties in the same vicinity and zone and subject to the same restrictions. Economic hardship is not grounds for a variance.

**“Vegetation conservation”** includes activities to prevent the loss of plant communities that contribute to the ecological functioning of shoreline areas. Vegetation conservation deals with the protection of existing diverse plant communities along the shorelines, aquatic weed control,

2 - dollar value as of ~~September 15, 2012~~ July 1, 2022.

and the restoration of altered shorelines by reestablishing natural plant communities as a dynamic system that stabilizes the land from the effects of erosion.

“**Visual public access**” see public access.

“**W**”

“**Wetlands**” see 18.06 TMC.

“**Water-dependent use**” means a use or portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include marinas, water access, boat launch ramps, bridges, water intake systems and sewer outfalls.

“**Water-enjoyment use**” means a recreational or similar use facilitating public access to the shoreline as a primary character of the use; or, a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general character of use and which, through location, design and operation assures the public’s ability to enjoy physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and the shoreline oriented space within the project must be devoted to the specific aspects of the use that foster enjoyment. Primary water-enjoyment uses may include, but are not limited to, parks, piers and other improvements facilitating public access to shorelines of the state; and general water-enjoyment uses may include but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, resorts, and mixed-use commercial; PROVIDED that such uses conform to the above water-enjoyment requirements and the provisions of this Chapter.

“**Water-oriented use**” means any one or combination of water-dependent, water-related or water-enjoyment uses.

“**Water quality**” means the physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this Chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

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

- A. The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or
- B. The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient. Water-related uses may include fish hatcheries.

“**Watershed restoration project**” means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:

- A. A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and

in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

**B.** A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or

**C.** A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred square feet in floor area and is located above the ordinary high-water mark of the stream.

**“Watershed restoration plan”** means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter [43.08C](#) RCW, the State Environmental Policy Act.

**“Woody Debris”** means all wood naturally occurring or artificially placed in streams, including, branches, stumps, logs and logjams.

Words used in the present tense shall include the future; the singular shall include the plural and the plural the singular; the word "shall", is mandatory and not permissive.

Definitions for terms requiring definitions not found herein shall be determined from the following sources, and if a conflict should arise between sources, such definition shall be established in the following priority:

- A. RCW 90.58, WAC 173-26, WAC 173-27, WAC 173-22
- B. Black's Law Dictionary by Henry Campbell Black, 3rd Edition, Publisher's Editorial Staff, St. Paul, West Publishing Company 1933, and subsequent amendments thereto.
- C. Webster's New Collegiate Dictionary, G. & C. Merriam Company, Springfield, Massachusetts, U.S.A., and subsequent amendments thereto.

### **18.08.050 Exemptions**

- A. Application and interpretation of exemptions.
  - 1. Exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the requirements for a substantial development permit.
  - 2. An exemption from the substantial development permit process is not an exemption from compliance with the act or the Chapter, nor from any other regulatory requirements. A development or use that is listed as a conditional use pursuant to TMC 18.08.070 Table 3 herein or is an unlisted use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When



a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a variance.

3. The burden of proof that a development or use is exempt from the permit process is on the applicant.
4. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.
5. The city may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the act and this Chapter.

**B.** The following developments shall not require substantial development permits:

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~-\$8,504~~~~six thousand four hundred sixteen dollars (\$6,416)~~<sup>3</sup>, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state as defined in RCW 90.58.030 (2)(c). The total cost or fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials;

2. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;

3. Construction of the normal protective bulkhead common to single-family residences. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land. When a vertical or near vertical wall is being constructed or reconstructed, not more than one cubic yard of fill per one foot of wall may be used as backfill. When an existing bulkhead is being repaired by construction of a vertical wall fronting the existing wall, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings. When a bulkhead has deteriorated such that an ordinary high-water mark has been established by the presence and action of water landward of the bulkhead then the replacement bulkhead must be located at or near the actual ordinary high-water mark. Beach nourishment and bioengineered erosion control projects may be considered a normal protective bulkhead when any structural elements are consistent with the above requirements and when the project has been

**Commented [MOU6]:** [COMMENT 4 – PR 2017(a)] – No action required; could update to include correct number of \$8,504 instead of \$6,416.

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3 - The dollar threshold established in this subsection must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the *Washington State Register* at least one month before the new dollar threshold is to take effect.

approved by the department of fish and wildlife.

4. Emergency construction necessary to protect property from damage by the elements. Emergency construction does not include development of new permanent protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation the new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to chapter 90.58 RCW, these regulations, or the local master program, obtained. All emergency construction shall be consistent with the policies of chapter 90.58 RCW and the local master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;

5. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, construction of a barn or similar agricultural structure, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels: Provided, That a feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;

6. Construction or modification of navigational aids such as channel markers and anchor buoys;

7. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence for their own use or for the use of their family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to chapter 90.58 RCW. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high-water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the OHWM. Construction authorized under this exemption shall be located landward of the OHWM;

~~8. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single family and multiple family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if:~~

~~In fresh waters, the fair market value of the dock does not exceed:~~

~~—twenty two thousand five hundred dollars for docks that are constructed to replace existing docks, are of equal or lesser square footage than the~~

~~existing dock being replaced; or~~

- ~~i. eleven thousand two hundred ten thousand dollars for all other docks constructed in fresh waters, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter.~~

**9.8.** Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored groundwater from the irrigation of lands;

**10.** The marking of property lines or corners on state-owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

**11.** Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed or utilized primarily as a part of an agricultural drainage or diking system;

**12.** Any project with a certification from the governor pursuant to chapter [80.50](#) RCW;

**13.** Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:

- a) The activity does not interfere with the normal public use of the surface waters;
- b) The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
- c) The activity does not involve the installation of any structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
- d) A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
- e) The activity is not subject to the permit requirements of RCW [90.58.550](#);

**14.** The process of removing or controlling aquatic noxious weeds, as defined in RCW [17.26.020](#), through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the department of agriculture or the department of ecology jointly with other state agencies under chapter [43.08C](#) RCW;

**15.** Watershed restoration projects as defined herein. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration projects as used in this section.

Commented [MOU7]: [COMMENT 3 – PR 2019(a)] – update required.

16. A public or private project that is designed to improve fish or wildlife habitat or fish passage, when all of the following apply:

- a) The project has been approved in writing by the department of fish and wildlife or, for forest practices hydraulic projects within the scope of RCW 77.55.181, the department of natural resources;
- b) The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 77.55 RCW or approval of a forest practices hydraulic project within the scope of RCW 77.55.181 from the department of natural resources; and
- c) The City has determined that the project is substantially consistent with the shoreline section of the Comprehensive Plan and this Chapter. The City shall make such determination in a timely manner and provide it by letter to the project proponent.
- d) Fish habitat enhancement projects that conform to the provisions of RCW 77.55.181 are determined to be consistent with local shoreline goals, policies and regulations, as follows:
  - 1) In order to receive the permit review and approval process created in this section, a fish habitat enhancement project must meet the criteria under i and ii of this subsection:
    - i. A fish habitat enhancement project must be a project to accomplish one or more of the following tasks:
      - Elimination of human-made fish passage barriers, including culvert repair and replacement;
      - Restoration of an eroded or unstable streambank employing the principle of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or
      - Placement of woody debris or other instream structures that benefit naturally reproducing fish stocks.
    - ii. The department of fish and wildlife shall develop size or scale threshold tests to determine if projects accomplishing any of these tasks should be evaluated under the process created in this section or under other project review and approval processes. A project proposal shall not be reviewed under the process created in this section if the department determines that the scale of the project raises concerns regarding public health and safety; and
    - iii. A fish habitat enhancement project must be approved in one of the following ways:
      - By the department of fish and wildlife pursuant to chapter 77.95 or 77.100 RCW;
      - By the sponsor of a watershed restoration plan as provided in chapter 89.08 RCW;

Commented [MOU8]: [COMMENT 2 – PR 2021(b)] – consider small update if applicable.

- By the department as a department of fish and wildlife-sponsored fish habitat enhancement or restoration project;
- Through the review and approval process for the jobs for the environment program;
- Through the review and approval process for conservation district-sponsored projects, where the project complies with design standards established by the conservation commission through interagency agreement with the United States Fish and Wildlife Service and the natural resource conservation service;
- Through a formal grant program established by the legislature or the department of fish and wildlife for fish habitat enhancement or restoration; and
- Through other formal review and approval processes established by the legislature.

e) Fish habitat enhancement projects meeting the criteria of 16 d) 1) of this subsection are expected to result in beneficial impacts to the environment. Decisions pertaining to fish habitat enhancement projects meeting the criteria of 16 d) 1) of this subsection and being reviewed and approved according to the provisions of this section are not subject to the requirements of RCW [43.08C.030](#) (2)(c).

f) A hydraulic project approval permit is required for projects that meet the criteria of this subsection and are being reviewed and approved under this section. An applicant shall use a joint aquatic resource permit application form developed by the office of regulatory assistance to apply for approval under this Chapter. On the same day, the applicant shall provide copies of the completed application form to the department of fish and wildlife and to the City. The City shall accept the application as notice of the proposed project. The department of fish and wildlife shall provide a fifteen-day comment period during which it will receive comments regarding environmental impacts. Within forty-five days, the department shall either issue a permit, with or without conditions, deny approval, or make a determination that the review and approval process created by this section is not appropriate for the proposed project. The department shall base this determination on identification during the comment period of adverse impacts that cannot be mitigated by the conditioning of a permit. If the department determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant and the appropriate local governments of its determination. The applicant may reapply for approval of the project under other review and approval processes.

i. Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may formally appeal the decision to the hydraulic appeals board pursuant to the provisions of this chapter.

g) The City may not require permits or charge fees for fish habitat enhancement projects that meet the criteria of ~~of~~ this subsection and that are reviewed and approved according to the provisions of this section.

17. The external or internal retrofitting of an existing structure with the exclusive purpose of compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.) or to otherwise provide physical access to the structure by individuals with disabilities.

Commented [MOU9]: [COMMENT 11 – PR 2016(a)] – Consider updating.

### 18.08.052 Shoreline Substantial Development Permits

- A. A Shoreline Substantial Development Permit shall be required for all development of shorelines, unless the proposal is specifically exempt per Section 18.08.050. Application requirements are contained in Title 19 TMC.
- B. In order to be approved, the decision maker must find that the proposal is consistent with the following criteria:
  - 1. All regulations of this Chapter appropriate to the shoreline designation and the type of use or development proposed shall be met, except those bulk and dimensional standards that have been modified by approval of a shoreline variance under Section 18.08.056.
  - 2. All policies of the Shoreline Element of the Comprehensive Plan appropriate to the shoreline area designation and the type of use or development activity proposed shall be considered and substantial compliance demonstrated.
  - 3. For projects located on shorelines of statewide significance, the policies in the Shoreline Element related to such shorelines shall be also be adhered to.
- C. The Administrator may attach conditions to the approval of permits as necessary to assure consistency of the project with the Act and this Chapter.
- D. Fees for Shoreline Substantial Development Permits shall be set by Council Resolution.

### 18.08.054 Conditional Use Permits

- A. Uses which are specifically prohibited by this Chapter may not be authorized pursuant to this section.
- B. Uses specifically classified or set forth in this Chapter as conditional uses shall be subject to review and condition by the Administrator.
- C. Other uses which are not classified or set forth in this Chapter may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this Section and the requirements for conditional uses contained in this Chapter.
- D. Conditional Use Permit Review Criteria
  - 1. The purpose of a conditional use permit is to provide a system within the master program which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the city of Tonasket or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the local master program.
  - 2. Uses which are classified or set forth in this Chapter as conditional uses may be authorized provided that the applicant demonstrates all of the following:

- a. That the proposed use is consistent with the policies of RCW [90.58.020](#) and the Tonasket Shoreline Master Program;
- b. That the proposed use will not interfere with the normal public use of public shorelines;
- c. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and this Chapter;
- d. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
- e. That the public interest suffers no substantial detrimental effect.

**E.** In the granting of all Conditional Use Permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if Conditional Use Permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW [90.58.020](#) and shall not produce substantial adverse effects to the shoreline environment.

**F.** Fees for Shoreline Conditional Use Permits shall be set by Council Resolution.

### **18.08.056 Variances**

**A.** The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Chapter and any associated standards appended to this Chapter such as critical areas buffer requirements where there are extraordinary or unique circumstances relating to the property and/or surrounding properties such that the strict implementation of this Chapter would impose unnecessary hardships on the applicant/proponent or thwart the policy set forth in RCW [90.58.020](#). Use restrictions may not be varied.

**B.** Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW [90.58.020](#). In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest will suffer no substantial detrimental effect.

**C.** Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW [90.58.030](#) (2)(b), and/or landward of any wetland as defined in RCW [90.58.030](#) (2)(h), may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in this Chapter precludes, or significantly interferes with, reasonable use of the property;
2. That the hardship described in 18.08.056C1 of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the master program, and not, for example, from deed restrictions or from the applicant's own actions;

3. That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Shoreline Management section of the Land Use element of the Tonasket Comprehensive Plan and this Chapter and will not cause adverse impacts to the shoreline environment;
4. That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area;
5. That the variance requested is the minimum necessary to afford relief; and
6. That the public interest will suffer no substantial detrimental effect.

**E.** Variance permits for development and/or uses that will be located waterward of the OHWM, as defined in RCW [90.58.030](#) (2)(b), or within any wetland as defined in RCW [90.58.030](#) (2)(h), may be authorized provided the applicant can demonstrate all of the following:

1. That the strict application of the bulk, dimensional or performance standards set forth in this chapter precludes all reasonable use of the property;
2. That the proposal is consistent with the criteria established under Section 18.08.056 (C) 1 through 6; and
3. That the public rights of navigation and use of the shorelines will not be adversely affected.

**F.** In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW [90.58.020](#) and shall not cause substantial adverse effects to the shoreline environment.

**G.** Variances from the use regulations of this Chapter are prohibited.

**H.** In authorizing a variance, special conditions may be attached to the permit by the City of Tonasket or the Department of Ecology to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the Shoreline Management Act and this Chapter.

**I.** Fees for Shoreline Variances shall be set by Council Resolution.

**J.** On all variance applications, the plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

## **18.08.060 General Regulations**

### **A. General**

1. Regulation of private property to implement any Shoreline goals such as public access and protection of ecological functions must be consistent with all relevant constitutional and other legal limitations. These include, but are not limited to, property rights guaranteed by the United States Constitution and the Washington State Constitution, applicable federal and



state case law, and state statutes.

2. Rights reserved or otherwise held by Indian Tribes pursuant to Treaties, Executive Orders, or Statutes, including right to hunt, fish, gather, and the right to reserved water, shall not be impaired or limited by any action taken or authorized by the City under this Chapter, and all rights shall be accommodated.
3. All development or use activity which occurs within the areas coming under the jurisdiction of this Chapter and the Shoreline Management Act (SMA), whether it requires a permit or not, must be consistent (in design, development and operation) with the intent of the SMA, conform to Chapter RCW 90.58 (SMA), this Chapter, adopted comprehensive plans, all applicable local regulations (including current zoning, subdivision, SEPA, critical areas, flood damage prevention or hazard reduction, health, sanitation, and building ordinances or codes), and any applicable state and federal regulations.
4. Emergency construction may be permitted subject to WAC 173-27-040(2)(d) (“Developments exempt from substantial development permit requirement”), when, as determined by Okanogan County Emergency Services or other formally designated local official in consultation with the Shoreline Administrator, that life and/or property is in danger. Emergency construction must be consistent with the policies of Chapter 90.58 RCW and this Chapter and with the regulations for shoreline modifications (Sections 18.08.060 B, C and E and Sections 18.08.060 F, I and S herein). Prior to emergency construction, the landowner must agree that, upon abatement of the emergency situation any new structure shall be removed or any permit which would have been required, absent an emergency, pursuant to Chapter 90.58 RCW, WAC 173-27, or this Chapter, shall be obtained. Mitigation pursuant to consultation with appropriate resource agencies shall be required for any permit issued after an emergency action. Regular flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency.
5. The provisions of this Chapter do not require modification of or limitations on agricultural activities legally underway on agricultural lands as of the date of adoption of this Chapter.
6. All shoreline and shoreland uses and activities shall be located and designed to minimize or prevent the need for shoreline stabilization measures, flood protection works, filling and/or substantial site re-grading. The use of car bodies, scraps of building materials, tires, asphalt or concrete from street work, or any discarded pieces of equipment, appliances or other debris for the stabilization of shorelines is prohibited. This prohibition shall not preclude the use of recycled/repurposed materials where the applicant has demonstrated the use of such used materials is equivalent to similar new materials. See regulations in Sections 18.08.060 B, C and E and Sections 18.08.060 F, I and S, for specific shoreline stabilization regulations and standards.
7. The disposal or dumping of solid waste is strictly prohibited in all shoreline areas, except in litter containers, which shall be regularly emptied, with the contents collected for transportation to an approved sanitary landfill or transfer station.
8. Dumping and/or burning of residential, commercial, industrial or municipal yard waste within the Zone 1 Vegetation Buffer is prohibited in all shoreline designations.
9. Where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost, bridges, utility lines, and other public utility and transportation

structures may be allowed within the channel migration zone or floodway. Where such structures are allowed, mitigation shall address impacted functions and processes throughout the affected water body, including effects upstream and downstream of the project site, and shall be adequate to ensure no net loss of shoreline ecological function. Impacts to views and vistas must also be mitigated.

**10.** No development designed for human habitation (e.g. houseboats, floating homes or cantilever type construction) is permitted on or over water.

**Commented [MOU10]:**  
[COMMENT 1 – PR 2021(a)] – No action required.

**11.** All shoreline development shall be conducted so 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 Chapter as well as the requirements of applicable regulatory agencies, including but not limited to the Washington Departments of Ecology and of Fish & Wildlife and the U. S. Army Corps of Engineers.

**12.** In-stream structures shall provide for the protection and preservation, of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. The location and planning of in-stream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring habitats and species.

**13.** All uses and activities, including those exempt from the requirement to obtain a shoreline substantial development permit, shall adhere to all required setbacks and other development standards, and shall retain all required buffers, in accordance with the provisions of this Chapter unless the use or activity is granted a variance.

**14.** No new development shall be allowed in wetlands, shoreline vegetation conservation areas or their buffers without following mitigation sequencing as regulated by Chapter 19.05.037.

**15.** All clearing and grading activities shall be limited to the minimum necessary for the allowed or permitted development and shall comply with the provisions of 18.08.060 Table 1 and 18.08.060 Table 2 and the regulations in Sections 18.08.060 B, and 18.08.060 C.

**16.** The city shall give preference to biological or mechanical means rather than herbicides or insecticides for weed and pest control in shoreline areas. When agricultural chemicals, fertilizers and other spray materials are used, provisions shall be made to minimize their entry into any body of water by following guidance found in Eastern Washington Storm Water manual and seeking guidance provided by Washington State Department of Agriculture. Spraying over open water is prohibited except to control known risks to public health or as approved by the State for treatment of aquatic weeds. 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.

**17.** All shoreline uses and activities shall comply with the Storm Water Management Manual for Eastern Washington (Washington Department of Ecology Publication 04-10-076, as amended). Specific requirements include, but are not limited to:

- a.** 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.

**b.** All shoreline uses and activities in all shoreline designations, both during construction and for the life of the project, shall use storm water 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 low impact development, 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 *Storm Water Management Manual for Eastern Washington* (Washington Department of Ecology Publication 04-10-076, as amended) shall provide the preferred guidance for surface water runoff best management practices.

**18.** All shoreline areas to be disturbed by proposed individual uses and developments in all shoreline designations which cause adverse environmental impacts to occur to shoreline functions shall be restored in compliance with an approved mitigation management plan as found in Chapter 19.05.037 TMC and be subject to posting a reclamation bond. Vegetation from the recommended list (Comprehensive Plan Appendix B) or other species authorized by the City shall be used. Planting of non-native plant species shall be prohibited in Zone 1 buffer areas. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall identify the size, location, and species of plants that will be used. The owner, manager, agency or developer maintaining the facility/parcel shall also be responsible for maintaining the vegetation until it is established. See Section 18.08.060 E. Vegetation Conservation for specific regulations and standards.

**19.** Any vacation of right-of-way within the shoreline must comply with RCW 35.79.035, “Limitations on vacations of streets abutting bodies of water — Procedure”, as it now exists and hereinafter amended.

**20.** All shoreline modification activities not in support of an existing conforming use or other allowed use are prohibited, unless it can be demonstrated, that such activities are necessary to protect primary structures and in the public interest or are for the maintenance, restoration or enhancement of shoreline ecological functions.

**21.** Shoreline modifications shall result in no net loss of shoreline ecological functions. The number and extent of shoreline modifications shall be limited to the minimum required.

**22.** Only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions shall be allowed. Preference shall be given to those types of shoreline modifications that have a lesser impact on ecological functions. For example, planting vegetation that will stabilize the shoreline is preferred rather than a concrete bulkhead.

**23.** Ecological impacts of shoreline modifications shall be mitigated in conformance with the regulations contained herein.

**24.** All shoreline modification activities must conform to this Chapter.

## **B. Clearing and Grading**

- 1.** Clearing and grading shall be addressed and identified in the permit or exemption application for the shoreline use or activity with which it is associated.
- 2.** Clearing or grading within required Zone 1 Vegetation and Zone 2 Use buffers and/or wetland buffers shall comply with the requirements of Section 18.08.080 F and 18.08.060 Tables 1 and 2.
- 3.** No clearing or grading shall be initiated before the permit, exemption or variance approval is issued.
- 4.** Existing native riparian vegetation shall be retained whenever possible.
- 5.** Grading permits:
  - a.** A grading permit issued by the City shall be required in the following situations:
    - 1)** Where more than 50 cubic yards of material will be moved within a shoreline area for any reason; or
    - 2)** Any clearing or grading within building setbacks or buffers.
    - 3)** Where clearing and grading will modify a percentage of a site's shoreline area landward of the building setback that is greater than the percentage or square footage (whichever is greater) as specified in 18.08.060 Table 1.
  - b.** An increase of up to an additional 25% to the limitations specified in 18.08.060 Table 1 may be permitted upon concurrence with a filed critical areas report and mitigation plan that demonstrates the grading and clearing will not impact the shoreline ecological function or value. This section shall not be construed as limiting the authority of the city to apply a condition of approval on an application requiring said report and plan for projects with less than maximum area disturbed.

**18.08.060 Table 1 Shoreline Clearing and Grading Standards<sup>4</sup>**

Shoreline Designation	Percent of site located within shoreline jurisdiction that may be cleared and/or graded <sup>5</sup>
High Intensity	60%
Shoreline Residential	50%
Urban Conservancy	15%
Shoreline Recreation	50%
Aquatic	N/A

**6.** In its review of clearing and grading proposals, the City shall require and utilize a clearing and grading plan that addresses species removal, replanting, irrigation, storm water control (including runoff from structures and pervious surfaces), erosion and sedimentation control, and plans for protecting shoreline resources and results in no net loss of ecological function.

**7.** Grading of a development site shall not alter natural drainage patterns in manner that would increase the rate or quantity of surface run-off. Such grading activities shall require a grading plan compliant with storm water best management practices.

**8.** Immediately upon completion of the construction or maintenance activity, remaining cleared areas shall be restored to a naturalistic condition using compatible, self-sustaining vegetation in accordance with Section 18.08.060 E Vegetation Conservation.

**9.** Clearing by hand-held equipment of invasive non-native vegetation on the State Noxious Weed List, including but not limited to *Ailanthus altissima* (*Tree of Heaven*), *Elaeagnus angustifolia* (*Russian Olive*), *Ulmus parvifolia* (*Chinese Elm*) and *Ulmus pumila* (*Siberian Elm*) is permitted in shoreline areas provided the disturbed area is promptly replanted with vegetation from the recommended list (Appendix B) or if the site will fully re-vegetate with plants that will support healthy shoreline function on its own within three growing seasons.

**10.** All shoreline development and activity shall use applicable BMPs from Eastern Washington Storm Water Management to minimize increases in surface water runoff that may result from clearing and grading activity.

**11.** Soil stabilization associated with clearing and grading shall, whenever feasible, use bioengineering or other soft stabilization techniques.

**12.** Any significant placement of materials from off of the site, or substantial creation or raising of dry upland, shall be considered filling and shall comply with the fill provisions of Section 18.08.060 C Fill.

4 - The standards in the table provide for the maximum percentage that may be cleared outside of Vegetation and Use Buffers.

5 - The percentages represent the maximum allowable with an increase of up to 25% permitted subject to a critical areas report and mitigation management plan that considers present ecological function, cumulative impacts of the development and restoration opportunities, both on and off-site, DOES NOT INCLUDE CLEARING WITHIN THE ZONE 1 or ZONE 2 BUFFERS.

**13.** Clearing and grading that is not part of an allowed and permitted shoreline use shall require a conditional use permit except on properties physically separated from the shoreline by another developed property or developed public right of way.

**C. Fill.**

- 1.** The City shall require and use the following information in its review of fill proposals and the applicant shall submit the following on their permit or exemption application:
  - a.** Proposed use of the fill area.
  - b.** Physical characteristics, such as chemical and biological composition if appropriate, depending on where it is to be placed or will be subject to inundation.
  - c.** Source of the fill material.
  - d.** Method of placement and compaction.
  - e.** Location of fill relative to existing drainage patterns and wetlands.
  - f.** Location of the fill perimeter relative to the OHWM.
  - g.** Perimeter erosion control or stabilization measures.
  - h.** Type of surfacing and runoff control devices.
- 2.** Fill waterward of the OHWM or in wetlands shall only be permitted as a conditional use in all shoreline designations, and only when necessary for one of the following purposes:
  - a.** water-dependent use,
  - b.** public access,
  - c.** cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan,
  - d.** disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the department of natural resources,
  - e.** Expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible, mitigation action, environmental restoration, beach nourishment or enhancement project.
  - f.** Fill in wetlands must comply with the wetlands provisions of this Chapter and shall result in no net loss of wetland area in functions including lost time when the wetland does not perform the function and is subject to mitigation in this Chapter.
- 3.** Pier or pile support shall be utilized whenever feasible in preference to filling. Fills for approved road, bridge or navigational structure development in floodways or wetlands shall be permitted only if pile or pier supports are proven infeasible.
- 4.** Fills are prohibited in floodplains except where it can be clearly demonstrated that the geo-hydraulic characteristics and floodplain storage capacity will not be altered to cause increased flood hazard or other damage to life or property in excess of accepted standards provided by state and/or federal agencies.
- 5.** Fills are prohibited in floodways.

6. Fills shall be permitted only when it is demonstrated that the proposed action will not:
  - a. Result in significant damage to water quality or fish and wildlife habitat;
  - b. Adversely affect natural drainage and circulation patterns or significantly reduce flood water capacities;
  - c. Affect slope stability; or
  - d. Otherwise damage shoreline or aquatic resources.
7. Placing fill in water bodies or wetlands to create usable land for shoreline development is prohibited and shall not be used to calculate parcel size proposed for subdivision.
8. Fills shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area. Perimeters of permitted fill projects shall be designed and constructed with silt curtains, vegetated buffer areas, or other methods, and shall be adequately sloped to prevent erosion and sedimentation both during initial fill activities and afterwards. Such containment practices shall occur during the first growing season following completion of the fill and shall be maintained until self-sustaining. The design shall incorporate natural-appearing and self-sustaining control methods unless they can be demonstrated to be infeasible due to existing environmental conditions such as currents and weather.
9. Fill materials shall be sand, gravel, rock, soil, or similar materials. Use of polluted dredge spoils, solid waste, and sanitary landfill materials is prohibited.
10. Fills shall be designed to allow surface water penetration into ground water supplies where such conditions existed prior to fill. Fills shall not be permitted in aquifer recharge areas if they would have the effect of preventing percolation of the water.
11. The timing of fill construction shall be regulated to result in no net loss of shoreline ecological functions, including water quality and aquatic life.
12. Fill on dry land shall not result in substantial changes to patterns of surface water drainage from the project site and onto adjacent properties; within shoreline areas; into aquatic areas; or onto steep slopes or other erosion hazard areas.

**D. Non-Wetland Setbacks and Buffers** (for wetland buffers see Section 18.08.080 F.)

1. Shoreline buffers<sup>6</sup> in shoreline areas shall be comprised of a vegetation and use buffers as follows:
  - a. Zone 1 -Vegetation Buffer. The area one-half the distance of the setback (setbacks are listed in 18.08.060 Table 2), in all shoreline areas is designated as a Vegetation Buffer. The vegetation buffer serves as restrictive protection zone for all shoreline functions and values in general and fish and wildlife habitat specifically. In these areas, existing native vegetation or vegetation from the recommended list (Comprehensive Plan Appendix B) must be maintained and protected, except as provided for in Public Access – View Corridor Provisions (Section 18.08.060 N) and General Regulations (Section 18.08.060 A.), Clearing and Grading (Section 18.08.060 B).
  - b. Zone 2 - Use Buffer. The area between the Zone 1 Vegetation Buffer and setback

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6 - Shoreline buffers in this Chapter shall serve as Riparian fish and wildlife habitat buffers.

line (setbacks are listed in 18.08.060 Table 2) in all shoreline areas is designated as Zone 2 Use Buffer. In these areas, removal of existing native vegetation shall be limited as provided in 18.08.060 Table 1 and uses limited to low intensity recreation, agricultural, accessory residential uses and accessory water-dependent and accessory water-related commercial uses.

**2. Measurement:**

**a.** All setbacks and Zone 1, Vegetation buffers<sup>7</sup> shall be measured on a horizontal plane from the ordinary-high-water-mark (OHWM) unless otherwise noted in 18.08.060 Table 2.

**b.** Zone 2, Use buffers shall be measured on a horizontal plane from the landward side of the vegetation buffer.

**c.** Use of Parallel Shoreline Designations – Parallel shoreline designations have been used throughout most of the community where the water front property is either owned by a public entity, lies on the waterward side of the levee or is comprised of an undevelopable steep slope. These areas are designated as Urban Conservancy with the intent of providing maximum protection to the immediate waterfront<sup>8</sup>. Where parallel shoreline designations have been applied in shoreline jurisdiction, the landward (higher intensity) Shoreline Designation's Zone 1 vegetation buffer shall be a minimum of 15 feet on a horizontal plane from the OHWM or the landward edge of the Urban Conservancy Designation, whichever is greater. The Zone 2 use buffer is measured on a horizontal plane from the landward edge of required Zone 1 vegetation buffer. Where the Urban Conservancy designation extends landward beyond the required Zone 2 use buffer, the landward edge of the Urban Conservancy designation shall be the extent of the Zone 2 use buffer.

**d.** All non-Wetland buffers shall be measured on a horizontal plane from the OHWM.

**3.** All buffers, lot frontage and lot coverage requirements shall be as set forth in 18.08.060 Table 2 except as follows or noted as exempt in Section 18.08.060 D. 3. e.:

**a.** Standard shoreline setbacks and/or Zone 1 or 2 buffers and/or lot coverage may be reduced by using procedures set forth in Section 18.08.060 D. 3. b and c. Lot coverage may be increased by using Section 18.08.060 D. 3. d. Administrative Lot Coverage Increase.

**b.** Administrative Buffer Width Averaging. The total required shoreline buffer (Zone 1+ Zone 2) width may be modified by the Administrator for existing lots of record in place at the time of adoption of this Program by averaging buffer widths based on a critical areas report and mitigation management plan prepared by a qualified professional and submitted by the applicant. A SEPA document may also be required depending on SEPA requirements found in WAC 197-11 and Tonasket Municipal Code Chapter 14. Buffer width averaging shall only be allowed where the applicant demonstrates all of the following:

<sup>7</sup> - Vegetation buffers are required for all shoreline developments in all environments.

<sup>8</sup> - The majority of the waterfront in Tonasket is occupied by an Army Corps of Engineers approved flood control levee, has been rip-rapped or otherwise altered.



- 1) The project site and adjoining area contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation;
  - 2) The width averaging shall not adversely affect the project site and adjoining area and buffer's functional value;
  - 3) The total area contained within the buffer after averaging is no less than that contained within the standard buffer prior to averaging unless a standard reduction is permitted through an administrative reduction as specified in Administrative Buffer Reduction (Section 18.08.060 D. 3. c).
  - 4) The minimum buffer width at its narrowest point shall not be less than seventy-five (75%) percent of the buffer width established under 18.08.060 Table 2.
  - 5) Sites which have had buffer widths reduced or modified, by any prior action administered by the local government are not eligible for the provisions of this section. Sites which utilize this provision are not eligible for any future buffer width reductions, under any provisions of this program, except as administered as a Type III permit under Chapter 19.05.030 TMC.
- c. Administrative Buffer Reduction. The Administrator shall have the authority to reduce buffer widths established in 18.08.060 Table 2 on a case-by-case basis; provided that the general standards for avoidance and minimization in Chapter 19.05.037 TMC. shall apply, based on a critical areas report, mitigation management plan and SEPA document prepared by a qualified professional and submitted by the applicant, and when the applicant demonstrates to the satisfaction of the Administrator that all of the following criteria have been met:
- 1) The buffer reduction shall not result in a net loss of functions of the habitat buffer.
  - 2) The maximum buffer width reduction allowed shall not exceed twenty-five (25%) percent total required buffer established in 18.08.060 Table 2.
  - 3) The buffer width reduction is contingent upon the submittal and approval of a critical areas report, mitigation management plan and SEPA document in conformance with Chapters 19.05.030 and 19.05.037 TMC.
  - 4) Sites which have had buffer widths reduced or modified, by any prior action administered by the local government are not eligible for the provisions of this section. Sites which utilize this provision are not eligible for any future buffer width reductions, under any provisions of this program, except as administered under 18.08.056 herein.
  - 5) In cases where there is less than 25' of existing riparian vegetation, the width of the buffers may be reduced, subject to the buffer Width Averaging (Section 18.08.060 D. 3. b.) or Administrative Buffer Reduction (Section 18.08.060 D. 3. c.) standards established above. To support a claim that the Buffer should be reduced, a planting plan shall be submitted in combination with a mitigation management plan (Chapter 19.05.037 TMC) and SEPA document prepared by a qualified professional and submitted by the applicant. The administrator's decision may be based on, but is not limited to, photographs of existing site conditions, and opinions of qualified

professionals. In no case shall the Zone 1 buffer be decreased to less than 10' or the total slope of the bank, whichever is greater. There is an exception for the water dependent portion of the development which is allowed to be located directly adjacent to the OHWM.

- d. Administrative Lot Coverage Increase.** The Administrator shall have the authority to increase the lot coverage allowance in 18.08.060 Table 2 on a case-by-case basis; provided that the general standards for avoidance and minimization in Chapter 19.05.037 TMC shall apply, and when the applicant demonstrates to the satisfaction of the Administrator that all of the following criteria have been met:
- 1) The increase in lot coverage will not increase surface water runoff, either onto other properties or toward the shoreline.
  - 2) The applicant is implementing best management techniques for the parcel's storm water handling.
  - 3) No net loss of ecological functions and values will occur.
  - 4) Sites which have had lot coverage increased or modified, by any prior action administered by the local government are not eligible for the provisions of this section. Sites which utilize this provision are not eligible for any future lot coverage increases, under any provisions of this program, except as administered under the Section Variances.
- e. Activities Exempt from Non-Wetland Buffers and Setbacks:** The following development activities are not subject to buffers and setbacks, provided that they are constructed and maintained in a manner that minimizes adverse impacts on shoreline ecological functions, these exceptions do not eliminate the proponent's need to apply mitigation sequencing or the need to provide mitigation for development's impacts, and provided further that they comply with all the applicable regulations herein:
- 1) **Water-Dependent Development:** Those portions of approved water-dependent development that requires a location directly adjacent to the OHWM of streams, rivers, lakes, ponds, associated wetlands, and/or within their associated buffers.
  - 2) **Modifications Necessary for Agency or Court Compliance:** Modifications to existing development that are necessary to comply with environmental requirements of any State or Federal agency or Court, when otherwise consistent with this Chapter, provided that the administrator determines that:
    - i. The facility cannot meet the dimensional standard and accomplish the state, federal or court ordered modifications necessary to bring it into compliance;
    - ii. The facility modifications are located, designed, and constructed to meet specified required modification standards necessary while complying with mitigation sequencing and minimizing damage to ecological functions and values of the critical area and/or shoreline; and
    - iii. The modification follows necessary provisions for non-conforming development and uses.
  - 3) **Shared Moorage:** Shared moorages shall not be subject to side yard setbacks

when located on or adjacent to a property line shared in common by the project proponents and where appropriate easements or other legal instruments have been executed providing for ingress and egress to the facility.

**f. Non-Wetland Buffer Exemption Criteria:** As determined by the Administrator, for development proposed on sites separated from the shoreline by intervening, and lawfully created public roads, railroads, or an intervening parcel under separate ownership (e.g. city of Tonasket), the requirements of this code for a vegetation buffer may be waived. For the purposes of this section, the intervening lots/parcels, roads, or other substantial improvements shall be found to:

- 1) Separate the subject upland property from the water body due to their width or depth;
- 2) Substantially prevent or impair delivery of most ecological functions from the subject upland property to the water body;
- 3) Be greater than 20' in width, measured horizontally and perpendicular from the OHWM of the Shoreline; and
- 4) Be in separate ownership, which has not been subdivided in the last 5 years and the applicant does not have a vested interest in the waterward intervening parcel; and
- 5) Be developed; the Buffer Exemption shall not be allowed if the intervening parcel is not developed.

#### **E. Vegetation Conservation.**

1. Restoration or enhancement of any shoreline area that has been disturbed or degraded shall use plant materials from the recommended list (Comprehensive Plan Appendix B) or other species approved by agencies or organizations operating within the jurisdiction, such as the departments of Ecology, County Extension, Fish & Wildlife or the Native Plant Society.
2. Stabilization of erosion-prone surfaces along shorelines shall primarily use vegetative, non-structural means and shall comply with the provisions of Sections 18.08.060 E and 18.08.060 S. More intensive measures may be permitted providing the project will result in no net loss in shoreline function.
3. Vegetation removal that would be likely to result in significant soil erosion or the need for structural shoreline stabilization measures is prohibited. This does not preclude the removal of noxious weeds, provided a mitigation management plan is submitted and approved.
4. Weed abatement shall comply with all provisions of this Chapter.
5. Non-destructive pruning and trimming of vegetation for maintenance purposes shall be permitted in compliance with View Corridor provisions of Section 18.08.060 N.
6. Permits issued for projects in ecologically degraded areas shall include a condition that appropriate shoreline vegetation shall be planted or enhanced, to contribute to the restoration of ecological processes and functions.
7. If weather does not permit immediate restoration of disturbed areas, replanting shall be completed during the next planting season, and the soil shall be protected until replanting is

complete.

**8.** If necessary, a temporary sterile cover crop (e.g., a sterile non-persistent member of the grass family such as sterile Triticale, barley, or oats) shall be planted to prevent erosion during the establishment period; said cover crop shall be maintained until the permanent vegetation is sufficiently established to prevent erosion.

**9.** Replanted areas shall be maintained until desired vegetation is well established (a minimum of three years). In the case of transportation, utility, or other capital facility construction, the agency or developer constructing the facility shall also be responsible for maintaining the vegetation until it is established.

**18.08.060 Table 2 Shoreline Development Standards**

All uses and activities must comply with all applicable standards for the shoreline designation where the use or activity will occur. All development standards are subject to modification based on a site-specific assessment, but in no case shall the standards be reduced greater than 25% of the standards stated below without the approval of a Shoreline Variance.

Standards	Aquatic	Shoreline Recreation	Urban Conservancy	Shoreline Residential	High Intensity
<b>Zone 1 + 2 Combined Vegetation and Use Buffer Width and Setback<sup>9</sup></b>					
Non-Water Dependent or Oriented Uses and Activities	N/A	80'	100'	50'	30' <sup>10</sup>
Water-Oriented Uses and Activities	N/A	30'	30'	30'	25' <sup>5</sup>
Water Dependent Uses and Activities <sup>11</sup>	N/A	0'	0'	0'	0'
<b>Zone 1 Vegetative Buffer Width<sup>12</sup></b>					
Non-Water Dependent or Oriented Uses and Activities	N/A	40'	50'	25'	15'
Water-Oriented Uses and Activities	N/A	15'	15'	15'	12.5'
Water Dependent Uses and Activities	N/A	0'	0'	0'	0'
% of Vegetation Buffer that may be altered for view corridor <sup>13</sup>	N/A	20%	10%	25%	30%
<b>Zone 2 Use Buffer Width<sup>14</sup></b>					
Non-Water Dependent or Oriented Uses and Activities	N/A	40'	50'	25'	15'
Water-Oriented Uses and Activities	N/A	25'	40'	15'	12.5'
Water Dependent Uses and Activities	N/A	0'	0'	0'	0'
<b>Zone 2 Use Buffer Allowed Alterations</b>					
% of Use Buffer that may be altered in total for allowed uses and view corridors	N/A	40%	20%	50%	60%
<b>Dimensions/Lot Coverage Requirements</b>					
Minimum Lot size (acres) <sup>15</sup>	N/A	1	1	5,000 sq ft	2,500 sq ft
Minimum Water Frontage <sup>16</sup>	N/A	100'	100'	50'	50'
Maximum lot Coverage	N/A	30%	40%	45%	60%
Side Yard setbacks	N/A	10'	10'	5'	0' <sup>17</sup>

10 - Measured from the top of the bank.

11- The setback may be reduced to 0' for those water-dependent uses (e.g. boat launches) that require location adjoining the water, but in all cases, such a setback shall be limited to the smallest area possible.

12- The Zone 1 Vegetation Buffer is 50% of the particular use setback and is measured on a horizontal plane from the OHWM.

13- Percent of shoreline that maybe altered is the given percentage or 30' for every 100' in shoreline frontage for view corridor, whichever is less. See section 18.08.020 K. View Corridor Provisions for more guidelines.

14- The area between the Vegetation Buffer and Setback intended for low impact uses and activities subject to standards. Use buffer measured on a horizontal plane from the landward edge of the Vegetation Buffer.

15- Minimum lot size may be increased based on applicable comprehensive plan and zoning regulations, but in no case, shall be reduced without the approval of a variance. In addition, minimum lot size only applies to lots or parcels created subsequent to the date of adoption of this Chapter, lots existing at the time of adoption shall be considered existing conforming parcels.

16- Minimum water frontage (measured along OHWM) only applies to lots or parcels created subsequent to the date of adoption of this Chapter, lots existing at the time of adoption shall be considered existing conforming parcels.

17- Zero (0') lot lines may be allowed through submittal of a development plan as part of a permit process (such as a building permit, PD, Long plat, binding site plan etc..) as long as views of the shoreline from upland properties or right-of-ways are

**NEW** Chapter 18.08 TMC – Shorelines Regulation

<b>Standards</b>	<b>Aquatic</b>	<b>Shoreline Recreation</b>	<b>Urban Conservancy</b>	<b>Shoreline Residential</b>	<b>High Intensity</b>
<b>Maximum Structure Height<sup>18</sup></b>					
Non-Water Oriented Uses and Activities	N/A	35'	35'	35'	35'
Water-Oriented Uses and Activities	N/A	25'	25'	25'	35'
Water Dependent Uses and Activities	10'	20'	20'	20'	35'

maintained and the cumulative side yard setbacks meet or exceed 20'.

18 - height limitations do not apply to bridges, transmission lines, water crossings and related appurtenances.

## **18.08.070 Use and Designation Specific Regulations**

The following use and designation specific regulations are in addition to the General Regulations contained in 18.08.060 TMC.

### **A. Accessory Utilities**

1. Sites disturbed for utility installation shall be stabilized during and immediately following construction to avoid adverse impacts from erosion.
2. Sites disturbed for utility installation shall be replanted using native species from the recommended list (Appendix B), with a diversity and type similar to or better than that which originally occurred on the site. Questions about appropriate diversity, plant type, and plant species shall be directed to agencies with expertise, such as the departments of Ecology and Fish and Wildlife.
3. Accessory utilities shall be placed landward of the permitted use setback requirements found in 18.08.060 Table 2. If feasible, utility lines shall be placed underground. Where lines must be placed aboveground, consideration shall be given to the maintenance of trees in the vicinity of the lines, and the utility line located to eliminate the need for topping or pruning trees.
4. Existing rights of way and corridors shall be used whenever possible to accommodate the location of utilities. Except where no other feasible alternative exists, accessory utilities that require continued maintenance (i.e. electrical transmission lines that require removal of undergrowth) shall not be placed in Zone 1 or 2 Buffers (between OHWM and structure setback).
5. Accessory Utilities should not obstruct views or vistas that may alter the visual character of the shoreline environment and its associated water body. Measures to conceal or shield accessory utilities in the shoreline from the water or to protect important view sheds or vistas from the shoreline may be required as conditions for building and development permits.
6. Aesthetic measures such as material and color selections to mitigate visual impacts including, but not limited to, light pollution, glare, visual obstructions of views and vistas may be required by the administrator.
7. Permanent storm water management systems located in shoreline jurisdiction or serving property within the shoreline shall be designed using best management practices ensuring water quality treatment in compliance with the Storm Water Management Manual for Eastern Washington to prevent storm water runoff from degrading or adding to the pollution of recipient waters or adjacent properties. Maintenance of storm drainage facilities on private property shall be the responsibility of the property owner(s). This responsibility and the provision for maintenance shall be clearly stated on any recorded subdivision, short plat, or binding site plan map, building permit, property conveyance documents, maintenance agreements and /or improvement plans.

### **B. Agriculture**

1. New agricultural activities on lands that did not have agricultural activities in place at the time of adoption of this Chapter; conversion of agricultural lands or the development of non-agricultural activities on agricultural lands; and uses in support of agricultural

activities are governed by the provisions of this Chapter and subject to the following criteria:

- a. Non-Agricultural land<sup>19</sup> converted to an agricultural use shall preserve pre-existing riparian habitat and will have a buffer strip of native vegetation no less than the Zone 1 Vegetation Buffer setback for the shoreline designation where it is located. Said buffer will be established and maintained along shorelines to protect shoreline ecological functions. Disturbance of ground in Zone 2 of the Use Buffer is subject to Lot Coverage standards (see 18.08.060 Table 2).
- b. Uses and activities shall be consistent with regulations specific to the shoreline designation and critical area (if applicable) in which the site is located, including regulations in 18.08.060 Tables 1 and 2 and 18.08.060 A and E;
- c. Nothing in this section limits or changes the terms of the current exception to the definition of substantial development. A substantial development permit shall be required for all agricultural development not specifically exempted by the provisions of RCW 90.58.030(3)(a)(vi), as it now exists or hereinafter amended.

### **C. Aquaculture**

Aquaculture is prohibited in all shoreline designations.

### **D. Archaeological, Cultural, Educational, Historic and Scientific Resources**

The following regulations apply to all shoreline uses and activities in all shoreline designations and on all sites within shoreline jurisdiction having archaeological, cultural, or historic resources that are recorded at the Washington Department of Archaeology and Historic Preservation (DAHP) and/or with local jurisdictions, including the City, the Confederated Tribes of Colville Reservation (CCT) and affected Indian tribes and bands; or that have been or may be inadvertently uncovered.

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. The Columbia River has been identified by the DAHP and/or the CCT as having a high probability of containing significant archaeological and historic resources shall be considered suspected historic, cultural, or archaeological resources.
3. Known or suspected historic, cultural, and archaeological sites:
  - a. Notification of DAHP, or CCT and, if required, preparation of an evaluation and a report meeting the minimum reporting standards of the DAHP or Colville (as appropriate). Such a report shall be 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, cultural, or historic resources, regardless of whether a shoreline permit or exemption is required.
  - b. Upon receipt of application for a shoreline permit or request for a statement of exemption for development on properties within 200 feet of a site known to contain an

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<sup>19</sup> - Non-agricultural lands are those lands that have not been subject to agriculture uses as defined in 17.08 TMC.



historic, cultural or archaeological resource(s), the local government with jurisdiction shall require an evaluation and a report meeting the minimum reporting standards of the DAHP, Colville (as appropriate), 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; provided that, the provisions of this section may be waived if the Administrator determines that the proposed development activities do not include any ground disturbing activities and will not impact a known historic, cultural or archaeological site.

c. The fee for the services of the cultural resource management professional shall be paid by the applicant. The applicant shall submit a minimum of five (5) copies of the site assessment (or electronic equivalent) to the Administrator for distribution to the applicable parties for review.

4. If the evaluation identifies the presence of significant historic, cultural, or archaeological resources, a Cultural Resource Management Plan (CRMP) shall be 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. The fee for the services of the cultural resource management professional shall be paid by the applicant. In the preparation of such plans, the cultural resource management professional shall solicit comments from the DAHP, the History and Archeology Department of the CCT, and any Indian or First Nations tribes or bands known to be affected. Comments received shall be incorporated into the conclusions and recommended conditions of the CRMP to the maximum extent practicable. The applicant shall submit a minimum of five (5) copies (and an electronic equivalent) of the CRMP to the Administrator for distribution to the applicable parties for review.

5. The recommendations and conclusions of the CRMP shall be used to assist the Administrator in making final administrative decisions concerning the presence and extent of historic, cultural, and archaeological resources and appropriate mitigating measures. The Administrator shall consult with the DAHP, the History and Archeology Department of the CCT, and any affected Indian or First Nations tribes or bands prior to approval of the CRMP.

6. The Administrator may reject or request revision of the conclusions reached in a CRMP when the Administrator can demonstrate that the assessment is inaccurate or does not fully address the historic, cultural, and archaeological resource management concerns involved.

7. Upon receipt of a complete development permit application in an area of known or suspected historic, cultural, or archaeological resources, the City shall notify and request a recommendation from appropriate agencies, including the DAHP, the CCT, and any Indian or First Nations tribes or bands known to be affected. Recommendations of such agencies and other affected persons shall be duly considered and adhered to whenever feasible.

Notification shall include the following information:

- a. The date of application, the date of notice of completion of the application, and the date of the notification;
- b. A site map including the street address, tax parcel number, township, range, and section of the proposed project area;

- c.** A description of the proposed project action and a list of the project permits included in the application, and, if applicable, a list of any studies requested by the local government with jurisdiction;
- d.** The identification of other permits not included in the application, to the extent known by the local government with jurisdiction;
- e.** The identification of existing environmental documents that evaluate the proposed project and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;
- f.** Any other information determined appropriate by the local government with jurisdiction;
- g.** A statement indicating those development regulations that will be used for project mitigation or a determination of consistency, if they have been identified at the time of notice;
- h.** A statement of the limits of the comment period and the right of each agency to comment on the application within a thirty (30) day time period, request a copy of the decision once made, and appeal a decision when allowed by law.
- d.** In granting shoreline permits or statements of exemption for development on properties within 500 feet of a site known to contain an historic, cultural or archaeological resource(s), the local government with jurisdiction may attach conditions to provide sufficient time and/or conditions for consultation with the DAHP, the CCT, and any affected Indian or First Nations tribes or bands, and to ensure that historic, cultural, and archaeological resources are properly protected, or for appropriate agencies to contact property owners regarding purchase or other long-term arrangements. Provision for the protection and preservation of historic, cultural, and archaeological sites shall be incorporated to the maximum extent practicable. Permit or other requirements administered by the DAHP pursuant to RCW 27.44 and RCW 27.53 may apply in addition to the provisions of this Chapter.

**8. Inadvertent Discovery**

- a.** All shoreline permits shall contain provisions requiring that, whenever historic, cultural or archaeological sites or artifacts are discovered in the process of development in shoreline areas, all work on that portion of the development site shall be stopped immediately, the site secured, and the find reported as soon as possible to the DAHP and Administrator.
- b.** Upon notification of such find, the property owner shall notify the DAHP, the History and Archaeology Department of the CCT, and any Indian or First Nations tribes or bands known to be affected. Notification to agencies shall include the information specified for notification under the heading “Known or suspected historic, cultural, and archaeological sites” above.

c. Upon notification of such find, the Administrator shall conduct a site investigation to determine the significance of the discovery. Based upon the findings of the site investigation and consultation with the parties listed above, the Administrator may require that an immediate evaluation be conducted or may allow stopped work to resume. The evaluation shall meet the minimum reporting standards of the DAHP and shall be conducted by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61, to determine the presence of significant historic, cultural, or archaeological resources. The fee for the services of the cultural resource management professional shall be paid by the landowner or responsible party. The applicant shall submit a minimum of five (5) copies of the evaluation and accompanying report to the Administrator for distribution to the applicable parties for review.

d. If an evaluation is required, the area of inadvertent discovery shall be stabilized, contained or otherwise protected until the evaluation is completed. The evaluation shall be distributed to the DAHP, the History and Archaeology Department of the CCT, and any Indian or First Nations tribes or bands known to be affected for a thirty (30) day review period or, in the case of inadvertent discovery of human remains, a thirty (30) day review period to determine the significance of the discovery. If the above listed agencies or governments have determined that the site is not significant, or if the above listed agencies or governments have failed to respond within the applicable review period following receipt of the site assessment, stopped work may resume.

e. Upon receipt of a positive determination of a site's significance, the Administrator may invoke the provisions for known sites, above, for a Cultural Resource Management Plan.

9. The requirements of this section shall not apply where an applicant has obtained an approved Archeological Excavation and Removal permit from the DAHP pursuant to WAC 25-48-060, provided that the applicant must adhere to the requirements of said approved permit.

## **E. Boating Facilities**

1. When establishing regulation of motorized vs non-motorized uses, whether by Okanogan County, the Colville Confederated Tribes or the city of Tonasket, hours and other limitations on boating use of waters in and near Tonasket, the regulations shall be based, in part, on protection of shoreline functions and values.

2. Mitigation for any adverse development impacts of boating facilities shall be required. On-site mitigation shall be preferred; however, in cases in which meaningful on-site mitigation is not feasible, off-site mitigation may be allowed. In such instances, a mitigation management plan shall be required, and shall specify a suitable mitigation site. Adverse development impacts to adjacent properties shall not be allowed.

3. New boating facilities shall be consistent with the applicable local comprehensive and recreation plans. When new sites are considered, sufficient evidence must be presented to show that existing boat launches ~~and~~, piers ~~and docks~~ are inadequate and cannot be expanded to meet regional demand.

4. For commercial and public boating facilities, the perimeter of parking and storage areas shall be landscaped to provide a visual and noise buffer between adjoining dissimilar uses or scenic areas, using primarily native, self-sustaining vegetation from the recommended list (Comprehensive Plan Appendix B). Landscaping along the waterward side shall also be required. The permit application submittal shall identify the size, location, and species of plants that will be used.
5. Boating facilities shall be located where no or minimal shoreline stabilization will be necessary and where water depths are adequate to eliminate or minimize the need for offshore or foreshore channel construction dredging, maintenance dredging, spoil disposal, filling, beach enhancement, and other maintenance activities.
6. When plastics and other non-biodegradable materials are used in boating facilities, precautions shall be taken to ensure their containment.
7. Boating facility design shall minimize interference with geohydraulic processes and disruption of existing shore forms.
8. Parking facilities serving a boating facility shall be located outside shoreline jurisdiction, or, if that is not feasible, shall be located landward of the Zone 2 - Use Buffer (18.08.060 Table 2).
9. Boating facilities including navigation aids shall be positioned so as not to be a hazard to navigation.
10. Boating facilities shall provide public access in accordance with Section 18.08.070 N Public Access.
11. Boating facilities shall be located and designed so their structures and operations will be aesthetically compatible with the area visually affected and will not unreasonably impair shoreline views. Use of natural non-reflective materials is encouraged.
12. The City shall request technical assistance from agencies with jurisdiction and/or knowledge, including but not limited to the Washington Departments of Ecology, Fish and Wildlife, and Health, US Army Corps of Engineers and Colville Tribes; and shall make available to those agencies the *Shoreline Inventory and Characterization* (Comprehensive Plan Appendix A) and maps developed as part of the Shoreline Chapter in the Land Use Element of the Tonasket Comprehensive Plan. The City shall consider the comments received from those agencies before making a decision on whether or not to approve the permit, and any conditions or modifications required.
13. Overwater structures shall only be placed on portions of the shorelines where the natural flows and velocities shall not be impeded by the structure and where the placement of the structure will not restrict the natural scour and depositional actions of the shoreline.
14. New pier ~~or dock~~ construction, ~~excluding docks accessory to single family residences,~~ shall be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses. If a public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier ~~or dock~~ space, and if the plan or analysis is approved by the City and consistent with these guidelines, it may serve as the necessary justification for pier design, size, and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future water-dependent uses.

a. ~~08~~ **Float-Specific regulations:**

- 1) No more than one float shall be permitted for each shoreline lot.
- 2) Floats shall not significantly interfere with navigation or with public use of shorelines. No portion of the float shall be placed more than eighty feet (80') from the OHWM by the point at which the depth of the water exceeds seven feet (7') during high water. Floats may be prohibited where necessary to protect navigation or public use of the water body.
- 3) No float shall have more than one hundred (100') square feet of surface area.
- 4) All multi-family residences proposing to provide floats shall be limited to a single shared float, provided that the Administrator may authorize more than one shared float if, based on conditions specific to the site, a single float would be inappropriate for reasons of safety, security, or impact to the shoreline environment; and if the additional float or floats will have no net impact on shoreline ecological resources.

**F. Bulkheads**

1. All bulkheads are also subject to the provisions of Sections 18.08.060 A, B, C and D, 18.08.070 I and S, and 18.08.080.
2. New or enlarged bulkheads for an existing principal structure or use, including residences and accessory structures, shall not be allowed unless there is conclusive evidence, documented by a geotechnical report prepared according to the local jurisdiction's standards for a critical areas report for geologically hazardous areas, that the principal structure is in danger from shoreline erosion caused by currents or waves. Normal sloughing, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis shall evaluate on-site drainage issues and address drainage in a manner that does not degrade shoreline function before considering structural shoreline stabilization. The project design and analysis shall also evaluate vegetation enhancement as a means of reducing undesirable erosion. The geotechnical analysis shall demonstrate that the stabilization measure chosen is the least intrusive means that will be sufficient to achieve stabilization. The geotechnical analysis shall evaluate impacts that could pose stabilization problems to neighboring properties.
3. An existing bulkhead may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves. In this case, demonstration of need does not necessarily require a geotechnical report; need must, however, be demonstrated using documentable information sources. The replacement structure shall be designed, located, sized, and constructed to ensure no net loss of ecological functions. Replacement bulkheads shall not encroach waterward of the OHWM or existing structure unless the residence was occupied prior to the date of adoption of this Chapter, and there is overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing stabilization structure. The Administrator may permit vegetative stabilization that restores ecological functions waterward of the OHWM.
4. A bulkhead-type structure used to stabilize a ~~deck~~ pier may be permitted, but the size shall be limited to the minimum necessary for the ~~deck~~ pier. The stabilization structure shall not exceed 1' wider than the gangplank or pier structure on each side nor shall it exceed 6'

landward in total distance from the OWHM into the shoreline area.

## G. Commercial Uses and Activities

1. Commercial development permitted in shoreline areas are, in descending order of preference:
  - a. Water-dependent uses;
  - b. Water-related uses;
  - c. Water-enjoyment uses; and
  - d. Non-water-oriented uses
2. The Administrator shall require and use the following information in his or her review of commercial development proposals:
  - a. Consistency with Tonasket Comprehensive Plan and zoning code;
  - b. Specific nature of the commercial activity;
  - c. Need for shoreline frontage; determination if use qualifies as water-dependent, water-related or water-enjoyment
  - d. Provisions for public visual and/or physical access to the shoreline;
  - e. Provisions to ensure that the development will not result in loss of shoreline functions including conditions for ecological restoration;
  - f. Measures for enhancing the relationship of the use to the shoreline, including aesthetics and landscaping; and
  - g. *The Shoreline Inventory and Characterization* (Comprehensive Plan Appendix A) and accompanying maps.
3. Non-water-oriented commercial uses are prohibited in all shoreline designations unless they meet two or more of the following criteria:
  - a. The use entails the reuse of an existing structure or developed area.
  - b. The subject property is designated and zoned for commercial development in the Tonasket Comprehensive Plan and Zoning Code.
  - c. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
  - d. The commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
  - e. In areas designated or zoned for commercial use, non-water-oriented commercial development may be allowed if the site is physically separated from the water by property under separate public ownership or public right of way.
4. Commercial development shall be designed and maintained in a neat, orderly, and environmentally-compatible manner, consistent with the character and features of the surrounding area.

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5. All commercial loading and service areas shall be located on the upland (landward) side of the commercial structure to the maximum extent practical or provisions shall be made to separate and screen the loading and service areas from the shoreline.
6. Commercial developments where landscaping is proposed shall be landscaped to visually enhance the shoreline area and contribute to shoreline functions and values, using primarily native, self-sustaining vegetation. Plants from the recommended list (Comprehensive Plan Appendix B) are preferred. The permit application submittal shall identify the size, location, and species of plants that will be used.
7. Water-related and water dependent commercial development on private and public lands shall be required to consider incorporating public access and ecological restoration as mitigation for impacts to shoreline functions and values unless public access cannot be provided which does not result in significant interference with operations or hazards to life or property, where commercial use is proposed for location on land in public ownership, public access shall be required. Refer to Section 18.08.070 N. and WAC 173-26-221(4) for public access provisions. Any intended public access facilities must be platted, or incorporated into a binding site plan, improved, and maintained and in compliance with local comprehensive planning and shoreline recreational access planning.

## H. Flood Hazard Prevention Projects

1. **Purpose.** It is the purpose of this section to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed:
  - a. To protect human life and health;
  - b. To minimize expenditure of public money and costly flood control projects;
  - c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - d. To minimize prolonged business interruptions;
  - e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
  - f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
  - g. To ensure that potential buyers are notified that property is in an area of special flood hazard;
  - h. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
2. **Methods of reducing flood losses.** In order to accomplish its purposes, this section includes methods and provisions for:
  - a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

- b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- d. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- e. Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

**3. Lands to which this section applies.** (44 CFR 59.22(a)) This Chapter shall apply to all areas of special flood hazards within the shoreline jurisdiction of the city of Tonasket, Washington.

**4. Basis for establishing the areas of special flood hazard.** (44 CFR 60.3(c)(1)(d)(2)). The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Tonasket, Washington" to be completed, and any revisions thereto, with an accompanying flood insurance rate map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this Chapter. The flood insurance study and the FIRM will be on file at 2 N. Ash when completed. The best available information for flood hazard area identification as outlined in 18.08.080 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under said section.

**5. Abrogation and greater restrictions.** This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**6. Interpretation.** In the interpretation and application of this Chapter, all provisions shall be:

- a. Considered as minimum requirements;
- b. Liberally construed in favor of the governing body; and
- c. Deemed neither to limit nor repeal any other powers granted under state statutes.

**7. Warning and disclaimer of liability.** The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

**8. Use of Other Base Flood Data (in A and V Zones) (44 CFR 60.3(b)(4)).** When base flood elevation data has not been provided (in A or V Zones) in accordance with Section 18.08.080 C., Basis for establishing the areas of special flood hazard, the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available



from a federal, state or other source, in order to administer this Section and Section 18.08.080 C.

**9. Alteration of Watercourses (44 CFR 60.3(b)(6)).**

- a. Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

**10. Interpretation of FIRM Boundaries.** Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

**11. General standards.** In all areas of special flood hazards within shoreline jurisdiction, the standards of this Section and Sections 18.08.060 A. and 18.08.080 C. are required.

- a. Development in floodplains should not significantly or cumulatively increase flood hazards or be inconsistent with comprehensive flood hazard management plans adopted pursuant to Chapter 86.12 RCW.
- b. New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be permitted when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway.
- c. The following uses and activities may be appropriate and/or necessary within the channel migration zone or floodway:
  - 1) Actions that protect or restore the ecosystem-wide processes or ecological functions.
  - 2) Existing and ongoing agricultural practices provided that no new restrictions to channel movement occur.
  - 3) Mining when conducted in a manner consistent with Section 18.08.070 K. Mining, the shoreline environment designation, and with the provisions of WAC 173-26-241(3)(h).
  - 4) Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate costs. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected shoreline.
  - 5) Repair and maintenance of an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.
  - 6) Development in incorporated municipalities and designated urban growth areas, as defined in Chapter 36.70A RCW, where structures exist that prevent active

channel movement and flooding.

7) Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition, that the measure does not interfere with fluvial hydrological and geo-morphological processes normally acting in natural conditions, and that the measure includes appropriate mitigation of impacts to ecological functions associated with the river or stream.

d. Allow new structural flood hazard reduction measures in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development; that nonstructural measures are not feasible; that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss; and that appropriate vegetation conservation actions are undertaken consistent with this Chapter, and WAC 173-26-221(5).

e. Structural flood hazard reduction measures shall be consistent with adopted comprehensive flood hazard management plans approved by the Department of Ecology.

f. Place new structural flood hazard reduction measures landward of the associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration; provided that such flood hazard reduction projects be authorized if it is determined that no other alternative to reduce flood hazard to existing development is feasible. The need for, and analysis of feasible alternatives to, structural improvements shall be documented through a geotechnical analysis.

g. Require that new structural public flood hazard reduction measures, such as dikes and levees, dedicate and improve public access pathways unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, unacceptable and unmitigated significant ecological impacts, unavoidable conflict with the proposed use, or cost that is disproportionate and unreasonable to the total long-term cost of the development.

h. Require that the removal of gravel for flood management purposes be consistent with an adopted flood hazard reduction plan and with the provisions of WAC 173-26, Section 18.08.070 I. Dredging and Section 18.08.070 K Mining; and be allowed only after a biological and geo-morphological study shows that extraction has a long-term benefit to flood hazard reduction, does not result in a net loss of ecological functions, and is part of a comprehensive flood management solution.

## **I. Dredging and Dredge Material Disposal**

1. The City shall require and use the following information in its review of shoreline dredging and dredge material disposal proposals:

- a. Dredging volumes, methods, schedules, frequency, hours of operation, and procedures.
- b. Analysis of material to be dredged in compliance with Model Toxics Control Act.
- c. Method of disposal, including the location, size, capacity, and physical characteristics of the disposal site, transportation methods and routes, hours of operation,

and schedule.

- d.** Stability of bedlands adjacent to the proposed dredging site.
- e.** Stability of geologically hazardous areas in the vicinity of the proposed dredging site.
- f.** Assessment of water quality impacts.
- g.** Habitat assessment meeting the standards prescribed for Fish and Wildlife Habitat Conservation Areas in Critical Areas regulations contained in this Chapter, including migratory, seasonal, spawning, migration, wetland and riparian use areas.

**2.** In evaluating permit applications for any dredging project, the Administrator and/or appropriate hearing or review body shall consider the need for and adverse effects of the initial dredging, subsequent maintenance dredging, and dredge disposal. Dredging and dredge material disposal shall only be permitted where it is demonstrated that the proposed actions will not:

- a.** Result in significant and/or on-going damage to water quality, fish, or other biological elements;
- b.** Adversely alter natural drainage and circulation patterns, or significantly reduce flood storage capacities;
- c.** Affect slope stability; or
- d.** Otherwise damage shoreline or aquatic resources.

**3.** Proposals for dredging and dredge disposal shall prepare a mitigation management plan that includes measures to protect fish and wildlife habitat and other critical areas in compliance with the regulations herein that includes measures to minimize adverse impacts such as turbidity; release of nutrients, heavy metals, sulfides, organic materials, or toxic substances; dissolved oxygen depletion; or disruption of food chains.

**4.** Dredging and dredge material disposal shall not occur in wetlands except as authorized by Conditional Use Permit in compliance with the regulations herein with conditions providing that valuable functions of the wetland, such as wildlife habitat and natural drainage, will not be diminished.

**5.** Dredging waterward of the OHWM shall be allowed by conditional use permit only when:

- a.** It has been proven that the development cannot be sited elsewhere and has been designed to avoid and minimize new and maintenance dredging (WAC 173-26-231(3)(f))
- b.** For navigation or existing navigational access;
- c.** In conjunction with a conforming allowed water-dependent use of water bodies or adjacent shorelands;
- d.** As part of a habitat management plan that has been approved by the City, and has been accepted by the Washington Department of Fish and Wildlife, or other agency with jurisdiction;
- e.** To improve water quality;
- f.** For mineral prospecting and placer mining as provided in Section 18.08.070 K

Mining;

**g.** In conjunction with a bridge or a navigational channel, basin, or structure for which there is a documented public need and where other feasible sites or routes do not exist; or,

**h.** To improve water flow and/or manage flooding only when consistent with an approved flood and/or storm water comprehensive management plan in conjunction with a habitat mitigation management plan.

**6.** Any impacts of dredging that cannot be avoided shall be mitigated in a manner that assures no net loss of shoreline ecological functions.

**7.** Dredging shall use techniques that cause the minimum dispersal and broadcast of bottom material.

**8.** Dredging for the primary purpose of obtaining material for fill is prohibited, except when the material is necessary for the restoration of ecological functions. The fill must be associated with a significant habitat enhancement project that is listed as part of a regional or watershed-scale plan, MTCA or CERCLA habitat restoration project. When allowed, the site where the fill is to be placed must be located waterward of the OHWM (WAC 173-26-231(3)(f)) and conducted in accordance with the dredged material management program of the department of natural resources.

**9.** Dredging to construct canals or basins for boat moorage or launching, water ski landings, swimming holes, and similar uses shall only be permitted as a conditional use and shall include a habitat enhancement/mitigation plan.

**10.** Disposal of dredged materials shall be accomplished at approved contained upland sites in compliance with all Federal, State and local regulations.

**11.** Depositing dredge materials in water areas shall be allowed only by Conditional Use Permit, for one or more of the following reasons:

**a.** For wildlife habitat improvement.

**b.** To correct problems of material distribution adversely affecting fish resources.

**c.** For permitted enhancement of beaches that provide public access, where it has been conclusively demonstrated that no net loss of shoreline ecological functions will result or for public safety.

**12.** Use of dredged material for beach enhancement shall be conducted so that:

**a.** Erosion from the disposal site is minimized. Erosion of the dredged material shall not smother emergent vegetation or other shallow productive areas.

**b.** To the extent possible, the volume of dredged material and frequency of disposal maintain a stable beach profile. Dredged material shall be graded as a uniform slope and contoured to reduce cove and peninsula formation and to preclude stranding of juvenile fish.

**13.** Land disposal sites shall be replanted as soon as feasible, and in no case later than the next planting season, in order to retard wind and water erosion and to restore the wildlife habitat value of the site. Vegetation from the recommended list (Comprehensive Plan Appendix B) or other species authorized by the City shall be used. Native plants are

preferred. Plants that may compromise shoreline values are prohibited. The permit application submittal shall identify the size, location, and species of plants that will be used. The agency or developer responsible for the land disposal shall also be responsible for maintaining the vegetation as established in the approved mitigation management plan.

14. Proposals for disposal in the channel migration zone is discouraged and only allowed by Conditional Use Permit (WAC 17-26-231(3)(f)). Disposal in other shoreline areas must provide for the implementation of adopted regional interagency dredge material management plans or watershed management planning that benefits shoreline resources.

## **J. Industrial Uses and Activities**

1. Industrial developments permitted in shoreline areas are, in descending order of preference:
  - a. Water-dependent uses;
  - b. Water-related uses;
  - c. Water-enjoyment uses; and
  - d. Non-water-oriented uses
2. New non-water-oriented industrial development shall be prohibited in all shoreline designations except when:
  - a. The use entails reuse of an existing structure or existing developed site.
  - b. The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
  - c. Navigability is severely limited at the proposed site; and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
  - d. In areas designated or zoned for industrial use, non-water-oriented industrial uses may be allowed if the site is physically separated from the shoreline by another property or public right of way.
3. The Administrator shall require and use the following information in his or her review of industrial development proposals:
  - a. Consistency with Tonasket Comprehensive Plan and Zoning Code;
  - b. Specific nature of the industrial activity;
  - c. Need for shoreline frontage;
  - d. Provisions for public visual and/or physical access to the shoreline;
  - e. Provisions to ensure that the development will not result in loss of shoreline functions or reduction in shoreline values;
  - f. Measures for enhancing the relationship of the use to the shoreline, including aesthetics and landscaping; and
  - g. The *Shoreline Inventory and Characterization* (Comprehensive Plan Appendix A) and accompanying maps.

4. Industrial development shall consider incorporating public access as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in WAC [173-26-221\(4\)](#).
5. Industrial development and redevelopment are encouraged to locate where environmental cleanup and restoration of the shoreline area can be incorporated.
6. Where industrial development is allowed, it shall be located, designed, or constructed in a manner that assures no net loss of shoreline ecological functions and such that it does not have significant adverse impacts to other shoreline resources and values.
7. Industrial development shall be designed and maintained in a neat, orderly, and environmentally-compatible manner, consistent with the character and features of the surrounding area. To that end, the Administrator may, following a public hearing, adjust the project dimensions and increase required setbacks established in 18.08.060 Table 2 and/or prescribe reasonable use-intensity and screening conditions. Need and special considerations for landscaping and buffer areas shall also be subject to review and approval.
8. New over-water construction for industrial uses is prohibited unless it can be shown to be essential to a water-dependent industrial use.
9. All loading and service areas shall be located on the upland (landward) side of the industrial facility or provisions shall be made to separate and screen the loading and service areas from the shoreline, unless such provisions are infeasible due to the specific nature of the water-dependent industrial use or the proposed circulation poses a safety hazard to existing traffic patterns.
10. Industrial development on private and public lands shall consider incorporating public access as mitigation for impacts to shoreline resources and values unless public access cannot be provided in a manner that does not result in significant interference with operations or hazards to life or property, as provided in WAC [173-26-241\(3\)\(f\)](#). Where industrial use is proposed for location on land in public ownership, public access shall be required. Any intended public access facilities must be platted, or incorporated into a planned development or binding site plan, improved, and maintained in compliance with local comprehensive planning and shoreline recreational access planning.
11. Industrial developments shall be landscaped to visually enhance the shoreline area and contribute to shoreline functions and values, using primarily native, self-sustaining vegetation. Plants from the recommended list (Comprehensive Plan Appendix B) are preferred. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall identify the size, location, and species of plants that will be used.
12. Drainage and surface runoff from industrial developments shall be controlled so that pollutants will not be carried into water bodies.

## **K. Mining Uses and Activities**

1. Mineral prospecting and placer mining are allowed subject to compliance with the current edition of the Washington State Department of Fish and Wildlife's Gold and Fish pamphlet, all other prospecting and placer mining activities at different times or locations, or with different equipment than allowed in WDFW Gold and Fish pamphlet shall be prohibited.

2. All Mining not meeting the definition of mineral prospecting or placer mining shall be prohibited in all shoreline designations.

#### **L. Municipal Uses (includes all local governments)**

Municipal uses are those in support of local government functions and services (e.g. public schools, city hall, maintenance facilities, hospitals, etc...). For the purposes of this section, recreational uses and utility facilities are excluded and shall comply with applicable sections.

1. Non-water-oriented municipal uses will be permitted in shoreline areas only when no other feasible location is available, and only in compliance with standards in this Chapter including bulk and dimensional standards established in 18.08.060 Table 2 and shall be in compliance with the clearing and grading section.

2. The Administrator shall require and use the following information in his or her review of municipal use proposals:

- a. Specific nature of the proposed activity;
- b. Need for shoreline location; including minimizing portion of use within shoreline jurisdictions.
- c. Other locations considered and the reasons for choosing a shoreline site;
- d. Provisions for public visual and/or physical access to the shoreline;
- e. Provisions to ensure that the development will not result in loss of shoreline functions or reduction in shoreline values;
- f. Measures for enhancing the relationship of the use to the shoreline, including aesthetics and landscaping; and
- g. The *Shoreline Inventory and Characterization* (Comprehensive Plan Appendix A) and maps developed as part of this Chapter.

3. Municipal uses shall be designed and maintained in a neat, orderly, and environmentally-compatible manner, consistent with the character and features of the surrounding area and result in no net loss of shoreline function. To that end, the Administrator may, following a public hearing, adjust the project dimensions and increase required setbacks established in 18.08.060 Table 2 and screening conditions. Need and special considerations for landscaping and buffer areas shall also be subject to review and approval.

4. All loading and service areas shall be located on the upland (landward) side of the principal structure or provisions shall be made to separate and screen the loading and service areas from the shoreline.

5. Municipal uses shall be landscaped to visually enhance the shoreline area and contribute to shoreline functions and values, using primarily native, self-sustaining vegetation. Plants from the recommended list (Comprehensive Plan Appendix B) are preferred. Plants that may compromise shoreline values shall be prohibited. The permit application submittal shall include a landscape plan identifying the size, location, and species of plants that will be used.

6. Drainage and surface runoff from municipal uses shall be controlled so that pollutants will not be carried into water bodies complying with the Eastern Washington Storm Water Manual.
7. Public access facilities must be provided, dedicated, improved, and maintained as part of any shoreline municipal use.

### **M. Parking**

1. Any new and expanded parking area in a shoreline area shall directly serve an existing (legal at the time of adoption of this Chapter) shoreline use.
2. All parking shall be prohibited over water.
3. Parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use.
4. Parking facilities shall prevent surface water runoff from contaminating water bodies, using the best available technology and best management practices, including complying with applicable Eastern Washington Storm Water Manual, and a maintenance program to assure proper functioning over time of any storm water facilities required to comply with this regulation.
5. New commercial and industrial parking facilities, necessary to support an authorized use, in shoreline areas shall be sited in compliance with bulk and dimensional standards of 18.08.060 Table 2, comply with Clearing and Grading Standards and designed to minimize visual, pedestrian, and other transportation network impacts as well as to minimize environmental impact on shoreline resources.
6. Commercial parking facilities shall be adequately screened and landscaped along the waterward side with plants from the recommended list (Comprehensive Plan Appendix B). Where a flood levee exists, it shall be considered screening.
7. Parking facilities that will serve more than one use, such as recreational use on weekends and commercial use on weekdays shall be allowed and preferred to single use parking facilities.

### **N. Public Access (Physical and Visual)**

1. Physical Access - Regulations
  - a. For the purpose of this Chapter, the adopted city of Tonasket Comprehensive Plan and Parks and Recreation Plan shall be considered the official public access plans. Additional recreation plans approved by the City Council may be used to supplement public access provisions of the Comprehensive Plan for this Chapter, provided said plans are not in conflict with the regulations herein.
  - b. Development, uses, and activities shall be designed and operated to avoid unnecessarily impairing or detracting from the public's physical or visual access to the water and shorelines.
  - c. Public access sites shall be dedicated to a public or non-profit entity unless a formal homeowners association or other legal entity exists or will be established to ensure the long term viability of the access.



**d.** Provisions for public or community access to the shoreline shall be incorporated into the shoreline development proposal for any action requiring such access unless the applicant demonstrates that such access is infeasible because at least one of the following provisions applies:

- 1)** Unavoidable health or safety hazards to the public exist which cannot be prevented by any practicable means;
- 2)** Inherent security requirements of the use cannot be satisfied through the application of alternative design features, such as fencing or limiting hours of use or other solutions;
- 3)** Unacceptable environmental harm will result from the public access which cannot be mitigated;
- 4)** Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated;
- 5)** In determining that public access (physical and/or visual) is infeasible the shoreline administrator and applicant shall ensure that all reasonable alternatives have been evaluated, including but not limited to:
  - a)** Regulating access by such means as limiting hours of use to daylight hours;
  - b)** Designing separation of uses and activities, i.e., fences, terracing, hedges, landscaping, signage, etc..
  - c)** Provision of an access at a site physically separated from the proposal such as a nearby street end, providing off-site public access improvements such as building a shoreline view point or establishment or providing improvements to a trail system.
- 6)** Dedication and improvement of physical public access shall be required as part of all shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, with the following exceptions:
  - a)** Where an approved public access plan developed as part of a regulatory licensing process is submitted. Said public access plan must provide adequate public access to the shoreline, based on a needs analysis. Said public access facilities shall be developed, improved, and maintained as part of an approved Shoreline Recreation Plan and installed in a timely manner in coordination with the approved shoreline development.
  - b)** Where more effective public access to the shoreline can be achieved through implementation of the adopted recreation plan of the local government with jurisdiction, the public entity proposing the development may contribute proportionally to implementation of the recreation plan in lieu of providing public access on site, unless onsite improvements are part of the public access plan.
  - c)** Where the community makes a finding that no additional public access is required consistent with local comprehensive plans.
- 7)** Dedication and improvement of public physical access shall be required in all shoreline areas as follows:

- a)** As part of commercial boating facilities designed to serve the public or located on and adjoining on public-owned uplands.
  - b)** As part of all new water-enjoyment, water -related and water-dependent commercial and industrial development, where consistent with local comprehensive plans, Sections 18.08.070 G. and J. and provided the intended use does not pose a safety threat to the general public.
  - c)** As part of all primary utility development on public land. The requirement may be waived when an approved public access plan has been adopted as part of a regulatory licensing process. Said public access plan must provide adequate public access, based on a needs analysis.
  - d)** As part of all subdivisions of land into more than five parcels, when consistent with local comprehensive and recreational public access plans.
  - e)** As part of new structural public flood hazard reduction measures, such as dikes and levees.
  - f)** As part of publicly financed or subsidized shoreline erosion control measures, where feasible, incorporate ecological restoration and public access improvements into the project, except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. These shoreline erosion measures shall not restrict existing public access to the shoreline.
- 8)** Adjoining short plats totaling more than eight parcels and submitted within 5 years of each other by the same applicant shall be subject to public access dedications if consistent with locally adopted plans.
- 9)** The scope and scale of public access shall be commensurate with the scale of the proposed land use action and the need for public physical and visual access opportunities in the vicinity of the proposed action.
- 10)** In all cases, the minimum width of shoreline public access easements shall be ten feet (10'), unless the Administrator determines that undue hardship would result. In such cases, easement or right-of-way widths may be reduced by no more than 25% only to the extent necessary to relieve the demonstrated hardship.
- 11)** Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.
- 12)** Public access sites shall be connected directly to a public street by way of a right of way or easement dedicated, improved, and maintained for public use. This requirement may be modified if the cost would be disproportionate to the scale of the proposed land use action.
- 13)** Where feasible, and in accordance with the Americans with Disabilities Act (ADA), public access sites shall be made barrier-free for people with disabilities.

**14)** Required public access sites shall be developed and available for public use at the time of occupancy of the use or activity; or in accordance with other provisions for guaranteeing installation through a monetary performance assurance.

**15)** Public access facilities shall be maintained over the life of the use or development. Future actions by successors in interest or other parties shall not diminish the usefulness or value of required public access areas and associated improvements.

**16)** Public access easements shall be recorded on the deed of title and/or on the face of the plat or short plat as conditions running in perpetuity. Said recording with the Okanogan 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.

**17)** The standard State-approved logo or other approved signs that indicate the public's right of access and hours of access shall be installed and maintained by the owner. Such signs shall be posted in conspicuous locations at public access sites.

**2. View Corridor - Regulations.**

**a.** View corridors shall comply with provisions for vegetation management and buffer requirements for the shoreline designation for the project site. View Corridors shall be allowed up to the percentage listed 18.08.060 Table 2 but limited to a width of 30 feet for every 100 linear feet of shoreline, in no case shall a view corridor be approved that will result in a view corridor greater than 30 feet in width paralleling the shoreline.

**b.** View corridors may be allowed, subject to the provisions of this section, to provide the general public and property owners with opportunities for visual access to water bodies associated with shoreline lots.

**c.** Vegetation removal that would be likely to result in significant soil erosion or the need for structural shoreline stabilization measures is prohibited.

**d.** Prior to removing vegetation for a view corridor, the owner of the shoreline parcel on which vegetation alterations are proposed must submit:

**1)** A signed application;

**2)** A scaled graphic which demonstrates the areal extent of the view corridor (width and depth), showing existing vegetation and proposed alterations; and

**3)** A graphic and/or site photos for the entire shoreline frontage, which demonstrates that the building site and proposed or existing structure does not, or will not when constructed, have a view of the water body, taking into account site topography and the location of shoreline vegetation on the parcel.

**e.** In creating a view corridor, removal of vegetation shall be limited to the minimum necessary to preserve or enhance views. In no case shall the view corridor exceed the provisions found in 18.08.060 Table 2.

**1)** The following standards apply:

**a)** View corridors are not allowed in the Urban Conservancy designations unless associated with an existing use.

**b)** View corridor widths are established as percentages in 18.08.060 Table 2 but in no case, shall exceed a width greater than 30'. A maximum width of 30' running parallel to the water's edge is permitted per 100' linear feet of shoreline in all designations (excluding Urban Conservancy, where view corridors are prohibited).

**c)** Pruning of native trees shall not exceed 30% of a tree's limbs.

**d)** "Topping" of native trees is prohibited.

**e)** Shrubs shall not be pruned to a height of less than six feet (6').

**f)** Removal or pruning of vegetation waterward of the OHWM is prohibited.

**g)** Once a view corridor or other shoreline access corridor has been established, no additional vegetation pruning for the view corridor is authorized except as may be permitted to maintain the approved view corridor from the re-growth of pruned limbs.

**h)** On any site on which a buffer has been reduced or modified, a view corridor will be allowed only when a critical areas report (Chapter 19.05.030) can clearly establish that fragmentation of fish and wildlife habitat will not occur, and that there will be no net loss of shoreline ecological functions.

**2)** The following additional requirements apply:

**a)** Plants that represent a hazard to safety, security, or shoreline ecological functions may be replaced with plants from the recommended list (Comprehensive Plan Appendix B), provided a mitigation plan is submitted and approved. The mitigation plan must meet the standards of the City for a mitigation plan for Critical Fish and Wildlife Habitat.

**b)** Non-native or invasive species may be replaced with plants from the recommended list (Comprehensive Plan Appendix B), provided a mitigation management plan is submitted and approved. The mitigation plan must meet the standards of Chapter 19.05.037 TMC.

**c)** All developments proposing a view corridor shall provide a mitigation plan that will need to be approved by the administrator. The mitigation plan must meet the standards found in this Section and Chapter 19.05.037 TMC.

**f.** Trimming and removal of trees to provide or enhance visual access shall be limited to the requirements found in this Section and 18.08.060 Table 1 as well as shoreline modification standards found in Sections 18.08.060 B, C and E. and 18.08.070 F, I and S.

**g.** Removal of diseased, damaged, stressed or non-native invasive trees for the purpose of forest stewardship and conservation, property protection, or fire safety are subject to approval through a shoreline exemption.

## **O. Utilities**

**1.** Utility development shall be located within public rights-of-ways or existing infrastructure corridors whenever possible and be coordinated with government agencies to provide for compatible multiple uses.

2. Utilities shall be located and designed to avoid damage or degradation to shoreline ecological functions including wetlands, marshes, bogs and other swamps; important wildlife areas; and other unique and fragile areas.
3. Underwater pipelines which transport material intrinsically harmful to aquatic life or potentially injurious to water quality, including sewer lines, shall be provided with automatic shut off valves at each end of the underwater segments.
4. Sites disturbed for utility installation shall be stabilized during and immediately following construction to avoid adverse impacts from erosion and shoreline ecological function, including protection of water quality using Best Management Practices.
5. Sites disturbed for utility installation shall be replanted using native species from the recommended list (Comprehensive Plan Appendix B), with a diversity and type similar to or better than that which originally occurred on the site. Questions about appropriate diversity, plant type, and plant species shall be directed to agencies with expertise, such as the departments of Ecology and Fish and Wildlife.
6. The placing of utility lines shall not obstruct or hinder physical or visual access to shoreline areas from public right-of-ways or public use areas. Utilities shall be placed landward of the primary structural setback requirements found in 18.08.060 Table 2. Compliance with local health district standards for the placement of onsite sewer systems shall be indicated on pre-application drawings. If feasible, utility lines shall be placed underground. Where lines must be placed aboveground, consideration shall be given to the maintenance of trees in the vicinity of the lines, and the utility line located to eliminate the need for topping or pruning trees.
7. Except where no other feasible alternative exists, utilities that require continued maintenance and therefore disrupt ecological processes (i.e. electrical transmission lines that require removal of undergrowth) shall not be placed in Vegetation Conservation areas (between OHWM and structure setback).

## **P. Recreation**

### **1. Recreation – Use Regulations**

- a. The location, design and operation of shoreline recreational developments shall be primarily related to access, enjoyment and use of the water and shorelines of the state, consistent with the comprehensive plan and recreation plan of the local government with jurisdiction. All such uses shall not result in a net loss of shoreline function.
- b. Commercial recreational development shall comply with the provisions for commercial development Section 18.08.070 G. Commercial.
- c. Substantial accessory use facilities, such as rest rooms, recreation halls and gymnasiums, commercial services, access roads, and parking areas shall be set back from the OHWM as specified in the Development Standards Table (18.08.060 Table 2), unless it can be shown that such facilities are water dependent and the planned location will not adversely affect shoreline functions. Such facilities may be linked to the shoreline by walkways.

- d.** Shoreline recreational developments shall maintain, and, when feasible, enhance or restore desirable shoreline features including those that contribute to shoreline ecological functions and processes, scenic vistas, and aesthetic values. Removal of healthy native vegetation to enhance views shall be allowed only in compliance under Sections 18.08.060 E and 18.08.070 N.
- e.** Recreational uses shall be designed to complement their environment and surrounding land and water uses.
- f.** No recreational buildings or structures shall be built over water, other than water-dependent and/or public access structures such as piers, ~~docks~~, bridges, boardwalks, or viewing platforms without appropriate lease from the Department of Natural Resources or consent of underlying property owner.
- g.** Each development proposal shall include a landscape plan that uses native, or native compatible self-sustaining vegetation. Removal of on-site native vegetation shall be limited to the minimum necessary for the permitted development or structures.
- h.** For recreational uses such as golf courses or parklands that require the use of fertilizers, pesticides, or other chemicals, the applicant shall specify the methods that will be used to ensure that the use complies with all provisions of this master program, including preventing the chemicals from entering adjacent water bodies or wetlands. Chemical-free buffer strips may be required at the discretion of the Administrator.
- i.** Recreational uses shall provide facilities for non-motorized access to the shoreline, such as pedestrian and bicycle paths, where those facilities will not result in loss of shoreline ecological functions.
- j.** Recreational uses shall include adequate provisions for water supply, sewage, garbage disposal, and fire protection.
- k.** Recreational development shall include adequate provisions, such as screening, buffer strips, fences, and signs, to buffer adjacent private property and natural areas and protect the value and enjoyment of those sites.
- l.** Trails and paths on steep slopes shall be located, designed, and maintained to protect bank stability.
- m.** Recreational uses shall be consistent with local comprehensive plan provisions and zoning regulations and required buffer and use setbacks in 18.08.060 Table 2 and critical area protection regulations in 18.08.080 TMC.
- n.** Non-motorized recreation trails shall be allowed in the Zone 2 Buffer provided they are consistent with the local comprehensive plan and zoning regulations and the regulations contained herein, including standards below. Non-motorized, non-impervious surface trails no greater than the minimum width required by state and/or federal statute for the type of facility (e.g. ADA requirements) to provide shoreline access may be allowed in the Zone 1 buffer through the submittal of a vegetation planting plan, mitigation management plan and compliance with mitigation sequencing standards found in Chapter 19.05.037 TMC, subject to the following minimum standards:
  - 1) Trail facilities shall, to the extent feasible, be placed on existing road grades, utility corridors, or any other previously disturbed areas;

- 2) Trail facilities shall minimize the removal of trees, shrubs, snags and important habitat features. Vegetation management performed in accordance with best management practices as part of ongoing maintenance to eliminate a hazard to trail users is considered consistent with this standard;
  - 3) Viewing platforms, interpretive centers, campsites, picnic areas, benches and their associated access shall be designed and located to minimize disturbance of wildlife and/or critical characteristics of the affected conservation area;
  - 4) All facilities shall be constructed with materials complementary to the surrounding environment;
  - 5) Trail facilities that parallel the shoreline may be located in Zone 2, setback area and as allowed in this Chapter and 18.08.060 Table 2, percent alteration of Zone 2;
  - 6) Commercial and Public trails shall be the minimum width necessary to meet the designed need, but in no case, shall they exceed 12 feet in width
  - 7) Private trails shall not exceed 5 feet in width;
  - 8) Trails that provide direct shoreline access (Perpendicular or angled to the water) shall not exceed 5 feet in width and shall be kept to the minimum number necessary to serve the intended purpose;
  - 9) Review and analysis of a proposed trail facility shall demonstrate no net loss of ecological functions and values in conformance with this Chapter; and
  - 10) Trail facilities shall not be exempt from special report requirements, as may be required by this Chapter.
- o. No recreational uses are allowed that require fill except for limited amounts required to provide for ADA access.

## **Q. Residential Development**

1. No lot for residential use shall be created that would not accommodate a buildable area, based on the zoning district, comprehensive plan designation and critical areas regulations, that meets the minimum building setback and other standards for the shoreline designation in which the lot is located.
2. No lots or plats will be approved that do not meet the minimum requirements of this Chapter.
3. Plats and subdivisions shall not rely upon new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.
4. In its review of proposals for multi-lot and or multi-unit subdivisions and/or planned developments and other large developments, the City shall require and use information about the impacts of the proposed development on shoreline ecological functions, including the cumulative impacts of exempt uses and activities within the development over time, and ensure there will be no net loss of shoreline function.

**5.** All single family and multi-unit residential developments shall comply with the buffer, setback, bulk and dimensional standards set forth in Section 18.08.060 D and 18.08.060 Table 2 of this Chapter, and shall be authorized only after approval of a site development plan, indicating the total disturbance footprint as required by this section. The disturbance footprint shall include:

- a.** All driveways and parking areas;
- b.** Wildfire defensible space;
- c.** Building footprint(s);
- d.** Water access pathway location and width, not to exceed 5 feet;
- e.** View access corridor, if applies;
- f.** Location of storage and staging of materials and equipment during construction;
- g.** Location of well and septic systems, if applicable;
- h.** Location of public access, joint use or community recreational facilities; and
- i.** Location of accessory utilities.

**6.** The construction of home(s) (inside the buffer or utilizing a buffer reduction) shall require preparation of a critical areas report and mitigation management plan as described in Chapters 19.05.030 and 19.05.037 TMC.

**7.** Location of the landward boundary of shoreline buffers as specified in 18.08.060 Table 2 shall be approved by the Administrator, and marked with permanent or temporary fencing sufficient to prevent any incidental incursion into, or disturbance of the buffer, by equipment, vehicles, building materials or other means.

**8.** Buildings constructed in areas of 20 percent or greater slope, or slide-prone areas, shall conform to the requirements for geologically hazardous areas.

**9.** Except for minimal pathways no greater than 5 feet in width to afford access to allowed ~~decks~~, boat access or swimming areas or to remove hazard trees as set forth in Sections 18.08.060 D and E, native plant communities and species in buffers specified in 18.08.060 Table 2 shall not be disturbed for any reason.

**10.** New parcels/lots created through land division within jurisdiction of this Chapter shall accomplish the following:

- a.** Plats and subdivisions as regulated elsewhere in this Chapter must be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.



b. Plats and subdivisions as regulated elsewhere in this Chapter must be designed, configured and developed in a manner that assures that no need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions. Such review shall require using geotechnical analysis of the site and shoreline characteristics when development is to occur in known or suspected geologically hazardous areas (see Map A11 in the Map Appendix to the Tonasket Comprehensive Plan). New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.

c. Plats and subdivisions as regulated elsewhere in this Chapter must be designed and configured such that a buildable area is available on each lot in conformance with Comprehensive Plan as well as required shoreline and critical area buffer/setbacks, unless a specific, unbuildable lot is being created as a shoreline open space/conservancy lot and is so recorded Plats.

## **R. Signage**

The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment; and to temporary and interpretive signs. Highway, public information, and temporary signs are addressed in 18.08.070 Table 3 Use Chart.

1. All signs shall comply with applicable regulations of the City and any other applicable regulations (e.g., Scenic Vistas Act).
2. Signs shall be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses. Except as necessary for safe navigation, moorage, or public safety signs shall be located landward of the required building setback.
3. All signs shall be located and designed to minimize interference with vistas, viewpoints, and visual access to the shoreline.
4. No signs shall be placed on trees or other natural features that will permanently damage or kill tree or feature.
5. Off premises and non-appurtenant signs shall not be permitted, with the following exception: temporary signs and interpretive signs related to shoreline uses and ecological functions shall be allowed where they comply with the other policies of this Chapter and, in the case of temporary signs, where adequate provisions are made for timely removal.
6. No sign shall have a surface area larger than 36 square feet.
7. Lighting of signs shall be prohibited unless the sign is necessary for safe navigation, moorage, or public safety. On-demand lighting shall be used whenever feasible.
8. Signs shall be located landward of the Zone 1 Buffer.

## **S. Shoreline Stabilization (See WAC 173-26-231(3)(a)(iii))**

- 1.** New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivisions shall be reviewed to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur. Such review shall require using geotechnical analysis of the site and shoreline characteristics when development is to occur in known or suspected geologically hazardous areas. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas shall not be allowed.
- 2.** New structural stabilization measures shall not be allowed<sup>20</sup> except to protect an existing primary structure when all of the conditions below apply:
  - a.** New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.
  - b.** The erosion control structure will not result in a net loss of shoreline ecological functions.
- 3.** New shoreline stabilization for water-dependent development shall not be allowed except when all of the conditions below apply:
  - a.** The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
  - b.** Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
  - c.** The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.
  - d.** The erosion control structure will not result in a net loss of shoreline ecological functions.
- 4.** New structural stabilization measures shall not be allowed for the restoration of ecological functions or hazardous substance remediation projects pursuant to Chapter 70.105D RCW (as it now exists or hereinafter amended) except when all of the conditions below apply:
  - a.** Nonstructural measures, planting vegetation or installing on-site drainage improvements are not feasible or not sufficient;

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<sup>20</sup> - Except for approved habitat restoration or enhancement projects

- b.** The erosion control structure will not result in a net loss of shoreline ecological functions.
- 5.** Use of shoreline stabilization measures to create new land is prohibited including creation of new lots that will require shoreline stabilization in order to allow development.
- 6.** New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.
- 7.** An existing shoreline stabilization structure may be replaced with a similar structure<sup>21</sup> if there is a demonstrated need to protect principal uses or structures from erosion caused by currents or waves.
  - a.** The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.
  - b.** Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.
  - c.** Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.
  - d.** For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.
- 8.** A geotechnical report prepared to address the need to prevent potential damage to a primary structure shall address the City's standards for a critical areas report (See Chapter 19.05.030) for geologically hazardous areas as well as the issues below.
- 9.** Geotechnical reports that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion and report on the urgency associated with the specific situation.
- 10.** Hard armoring solutions shall not be authorized except when a geotechnical report confirms that there is a significant possibility that the primary structure will be damaged within three years as a result of shoreline erosion in the absence of hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Where the geotechnical report

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<sup>21</sup> Said replacement structure shall be engineered and designed to address the issues of the failure of the existing structure

confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, the report may still be used to justify more immediate authorization to protect against erosion using soft measures.

**11.** Shoreline stabilization shall not be allowed for new uses if it would cause a net loss of shoreline ecological functions on the site, or within the watershed; or if it would cause significant ecological impacts to adjacent properties or shoreline areas. Those impacts include accelerated erosion of adjacent properties caused by the stabilization measures.

**12.** New uses, including exempt uses, in areas above unstable slopes and moderately unstable slopes shall be set back sufficiently to ensure that shoreline stabilization will not be needed during the life of the structure, as demonstrated by a geotechnical analysis.

**13.** Where structural shoreline stabilization measures are shown to be necessary, the extent of the stabilization measures shall be limited to the minimum necessary.

**14.** Stabilization measures shall be designed to minimize harm to and as much as possible restore ecological functions. Lost functions shall be mitigated to ensure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated to be insufficient to protect the primary structure or structures.

**15.** Where stabilization is necessary to alleviate erosion caused by removal of vegetation, vegetative stabilization measures shall be the only stabilization measures allowed, except where a report by a qualified professional is submitted. See Section 18.08.060 E Vegetation Conservation.

**16.** Where feasible, ecological restoration and public access improvements shall be incorporated into public projects. Publicly financed or subsidized shoreline erosion control measures shall not restrict appropriate public access to the shoreline, except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions.

**17.** All applicable federal, state, and local permits shall be obtained and complied with in the construction of shoreline stabilization measures. All permits must be issued before any stabilization work takes place.

## **T. Transportation**

**1.** Transportation development serving non-water dependent uses should avoid the shoreline area where possible to avert damage to shoreline ecological function. Transportation development serving water oriented and water related uses shall be considered as part of that use and subject to the following provisions:

**a.** Plan, locate, and design proposed transportation and parking facilities where routes will have the least possible adverse effect on unique or fragile shoreline features, will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

**1)** New roads or road expansions should not be built within shoreline jurisdiction, unless other options are unavailable and infeasible. Design of roadways through shoreline areas should occupy the least narrow horizontal profile (road width) possible to convey traffic in a safe manner measured from ditch to ditch or shoulder to shoulder (whichever is narrowest) to minimize the footprint of roadway.

- 2) Storm water runoff from roadways should be contained using Best Management Practices
  - 3) De-icing, salting, and graveling of roads should be conducted in accordance with Best Management Practices.
  - 4) Surfacing materials should not input or erode sediment into waterways.
- b.** Transportation and parking plans and projects shall be consistent with the master program public access policies, public access plan, and environmental protection provisions.
  - c.** Circulation system planning shall include integrated corridors for pedestrian, bicycle, and public transportation where appropriate. Circulation planning and projects should support existing and proposed shoreline uses that are consistent with the master program.
  - d.** Transportation and circulation systems shall be applied for at same time the primary development permit is being applied for complying with lot clearing and impervious surface standards found in 18.08.060 Tables 1 and 2.

**18.08.070 Table 3 Shoreline Use & Activity Designation Specific Regulations**

All uses and activities must comply with all applicable provisions of this Chapter, including the General, Shoreline Modification, Use-Specific, and Shoreline Designation-Specific regulations. Uses and activities not listed in the Shoreline Use and Activity Chart may be allowed with a conditional use permit, if they comply with the standards in this section and with any regulations that apply to similar uses. All shoreline permits and exemptions are subject to conditions providing for maintenance, enhancement, and/or restoration of shoreline functions.

- A = Allowed – requires exemption<sup>22</sup>; or, Substantial Development or Conditional Use Permit, depending on fair market value and/or intensity of use or activity.
- E = Exempt from shoreline permitting, but not the regulations contained herein.
- SDP = Shoreline Substantial Development Permit required.
- CUP = Shoreline Conditional Use Permit required.
- X = Prohibited use
- S = Same as in adjacent shoreline designation landward of the OHWM (applicable to areas designated Aquatic only)
- N/A = Not Applicable

(a) In the event that there is a conflict between the use(s) identified in 18.08.070 Table 3 and the policies in the Shoreline Element of the Tonasket Comprehensive Plan, the policies shall apply.

(b) Aquatic: Water-dependent use only, subject to the use and development regulations of the abutting upland shoreline area designation.

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<sup>22</sup> - exempt uses and activities are defined by statute, see definitions in 18.08.040 TMC.

18.08.070 Table 3 Use and Activity Chart

Uses and Activities	Aquatic <sup>(b)</sup>	Shoreline Recreation	Urban Conservancy	Shoreline Residential	High Intensity
<b>Utilities (Sections 18.08.070 A and O)</b>					
Primary (Section 18.08.070 O)	CUP	CUP	CUP	SDP	SDP
Accessory (Section 18.08.070 A)	X <sup>23</sup>	A	A	A	A
<b>Agriculture (Section 18.08.070 B)</b>					
Grazing/Cultivation/Orchards <sup>24</sup>	X	A	A	A	A
Agricultural Buildings <sup>21</sup>	X	A	A	A	A
Feedlots (CAFOS/AFOS)	X	X	X	X	X
Conversion from non-agricultural land to agricultural use	X	SDP	SDP	SDP	SDP
<b>Aquaculture (Section 18.08.070 C)</b>					
Floating Net Pen type & Accessory structures	X	X	X	X	X
On shore, confined types of facilities & Accessory structures	X	X	X	X	X
<b>Archaeological, Scientific, Educational and Historic Resources (Section 18.08.070 D)</b>					
Archaeological areas, scientific, educational or historic sites – low intensity	A	A	A	A	A
Archaeological areas, scientific, educational or historic sites – high intensity	SDP	SDP	SDP	SDP	SDP
<b>Boating Facilities (Section 18.08.070 E)</b>					
Piers and Docks	<del>S</del> X	<del>X</del> SD P	X	<del>X</del> SD P	<del>X</del> SDP
Covered Moorage (Boat Canopies)	S	CUP	CUP	CUP	CUP
Covered Moorage (Boat Garages)	X	X	X	X	X
Commercial Wet Moorage	S	CUP	CUP	X	SDP
Commercial dry boat storage	S	SDP	X	X	SDP
<b>Boat Launch Ramps</b>					
Commercial	S	SDP	X	X	SDP
Public	S	SDP	SDP	SDP	SDP
Private, hard surfaced for motorized water craft	X	X	X	X	X

23 - Accessory utilities shall be prohibited except those required to serve a permitted water-dependent use, which shall require a conditional use permit.

24 - Preference shall be given to non-commercial, community and/or personal gardens that may be used for personal use or small-scale market gardens

Uses and Activities	Aquatic <sup>(b)</sup>	Shoreline Recreation	Urban Conservancy	Shoreline Residential	High Intensity
Private, low impact gravel or cobble for hand launching water craft	S	SDP	SDP	SDP	SDP
Boat Lifts	S	SDP	SDP	SDP	SDP
Mooring buoys/float plane moorage accessory to permitted moorage	S	SDP	CUP	SDP	SDP
Floats	S	SDP	CUP	SDP	SDP
<b>Bulkheads (Section 18.08.070 F)</b>					
Bulkheads	S	CUP	CUP	CUP	CUP
<b>Commercial Uses and Activities (Section 18.08.070 G)</b>					
Water-dependent	CUP <sup>25</sup>	SDP	SDP	SDP	SDP
Water-related/water-enjoyment	X	SDP	SDP	SDP	SDP
Non-water Oriented	X	X	X	X	X <sup>26</sup>
<b>Flood Hazard Prevention Projects (Section 18.08.070 H)</b>					
All projects	CUP	SDP	SDP	SDP	SDP
<b>Dredging and Dredge Material Disposal (Section 18.08.070 I)</b>					
All projects	X	X	X	X	X
<b>Industrial Uses and Activities (Section 18.08.070 J)</b>					
Water-dependent	CUP <sup>27</sup>	X	X	X	SDP <sup>28</sup>
Water-related	X	X	X	X	SDP
Nonwater Oriented	X	X	X	X	SDP
<b>Mining Uses and Activities (Section 18.08.070 K)</b>					
Surface Mining <sup>29</sup>	X	X	X	X	X
Other Mining	X	X	X	X	X
Mineral Prospecting and Placer Mining <sup>30</sup>	A	A	A	A	A

25 - limited to water-dependent uses that require an over-the-water location and are allowed in the landward shoreline designation.

26 - unless approved using Section 18.08.070 G.

27 - Industrial development shall be limited to water-dependent uses that require an over-the-water location and are allowed in the landward shoreline designation.

28 - unless approved using Section 18.08.070 J and subject to the following: Industrial development shall be water dependent, water related or water-oriented or be physically separated from the shoreline by another property under separate ownership, a flood control structure, or public right of way and in no case, shall non-water dependent new industrial development warrant to construction of flood protection structures or shoreline stabilization.

29 - unless the subject property has been designated as mineral lands of long-term commercial significance which shall require a conditional use permit.

30 - If performed in compliance with current version of WDFW Gold and Fish Pamphlet, all others prohibited.



<b>Municipal Uses (Section 18.08.070 L)</b>					
Water-dependent	SDP	SDP	A	A	A
Water-related/water-enjoyment	SDP	SDP	A	A	A
Non-water Oriented	CUP	CUP	CUP	SDP	SDP
<b>Parking (Section 18.08.070 M)</b>					
Parking appurtenant to existing permitted use	X	SDP	CUP	SDP	A
Parking as a primary use	X	X	X	X	SDP
Commercial parking	X	X	X	X	SDP
<b>Recreation (Section 18.08.070 P)</b>					
High Impact	S	SDP	SDP <sup>31</sup>	SDP	SDP
Medium Impact	S	SDP	SDP <sup>28</sup>	SDP	SDP
Low Impact	S	A	A <sup>28</sup>	A	SDP
High Intensity (non-water-oriented)	X	SDP	CUP <sup>28</sup>	SDP	SDP
High Intensity (water-oriented)	S	SDP	SDP <sup>28</sup>	SDP	SDP
Medium Intensity	S	A	SDP <sup>28</sup>	SDP	A
Low Intensity / Passive	S	A	A <sup>28</sup>	A	A
<b>Residential (Section 18.08.070 Q)</b>					
Exempt single-family dwellings <sup>32</sup>	X	A	A	A	A
Non-exempt single-family dwellings (e.g. seasonal or year-round rentals)	X	SDP	X	SDP	SDP
Multi-family	X	SDP	X	SDP	SDP
Subdivision	SDP	A	SDP	A	A
<b>Signs (Section 18.08.070 R)</b>					
Commercial Signs – on-site advertising(private)	X	X <sup>33</sup>	X <sup>30</sup>	SDP <sup>34</sup>	SDP <sup>31</sup>
Commercial Signs - off-site advertising (private)	X	X	X	X	X
Public Highway, Safety, Directional and Informational Signs (public)	A	A	A	A	A
<b>Shoreline Stabilization (Section 18.08.070 S)</b>					
Dredging and Material Disposal <sup>35</sup> (18.08.070 L)	S	CUP	CUP	CUP	CUP
Filling <sup>36</sup> (18.08.060 C)	S	SDP	SDP	SDP	SDP

31 - Recreation uses limited to water-oriented uses and activities.

32 - RCW 90.58.030(3)(e)(vi) Construction on shorelands by an owner, lessee, or contract purchaser of a single-family residence (inclusive of accessory utilities) for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this Chapter (SEE WAC 173-26-211(5)(a)(ii)(C))

33 - All outdoor advertising, signs and billboards shall be prohibited except:

- i. Those signs necessary to protect the health, safety, and welfare of the public.
- ii. Those necessary to give direction or identify and/or interpret a natural or cultural feature.
- iii. Permitted signs shall not exceed 6 square feet in surface area.
- iv. Permitted signs shall not exceed 6 feet in height.
- v. Outdoor lighting of signs in the Urban Conservancy designation shall be prohibited

34 - Outdoor advertising, signs and billboards are allowed subject to a substantial development permit and shall not exceed 36 square feet.

35 - All dredging shall be the minimum required to support an existing permitted or proposed allowed use and shall be subject to a conditional use permit.

36 - All filling in the shoreline area is prohibited except for fill is limited to the minimum amount required for

~~NEW~~ Chapter 18.08 TMC – Shorelines Regulation

Clearing and Grading <sup>37</sup> (18.08.060 B)	X	CUP	CUP	CUP	CUP
Bulkheads and revetments (18.08.070 F)	S	CUP	CUP	CUP	CUP
Shoreline Restoration and Enhancement <sup>38</sup>	S	A	A	A	A
Hardening, Structural approaches <sup>39</sup>	S	CUP	CUP	CUP	CUP
<b><i>Transportation (Section 18.08.070 T)</i></b>					
Roads and Railroads	S	SDP	SDP	SDP	SDP

existing permitted or proposed allowed uses.

37 - Clearing and grading that is not part of an allowed and permitted shoreline use shall require a conditional use permit except on properties physically separated from the shoreline by another property or public right of way.

38 - Restoration and enhancement projects may be exempted if part of an approved recovery plan.

39 - Subject to provisions in Section 18.08.070 S. for shoreline stabilization

**18.08.070 Table 4 Guidelines for Establishing Land Use Intensity**  
 (To Be Used in Conjunction with this section, Title 17 TMC Zoning Code, Chapter 18.06 TMC Critical Areas and related adopted development and performance Standards)

Level of Land Use Intensity	Types of Land Uses
High	Commercial, industrial, institutional, retail, residential density > 1 du/acre, high intensity recreation (ball fields, golf courses), highways and paved thoroughfares
Moderate	Residential < 1 du/acre, open space with active recreation development and activities, impervious drives serving > 3 du, paved trails, utility corridors and rights-of-way requiring vegetation management and service roads
Low	Open space with passive recreation, agriculture, unpaved roads serving < 2 du, unpaved trails, utility corridor without service road or vegetation management

**18.08.080 Critical Areas in Shoreline Jurisdiction**

**Commented [MOU12]:** [COMMENT 19 – PR 2010(a)] – No action required.

Critical areas (see Maps A6 to A11 in Comprehensive Plan Map Appendix) within shoreline areas shall be protected using the regulations herein unless otherwise specified in this section. Identified critical areas within shoreline jurisdiction are limited to aquifer recharge, fish & wildlife habitat and very limited areas designated as flood hazard, and wetlands. All uses and activities within identified critical areas shall require mitigation sequencing (Chapter 19.05.037 TMC) and may require a critical areas report and mitigation management plan (Chapter 19.05.030 TMC) depending on proposed impacts and location of project.

**A. General**

1. This section establishes protection measures for designated critical areas within shoreline jurisdiction. All development or other alterations within, adjacent to, or likely to affect, one or more critical areas, whether public or private, shall be subject to review by the administrator for compliance with this Chapter. “Adjacent” shall mean any activity located:
  - a. On a site immediately adjoining a critical area;
  - b. Within a distance equal to or less than the required critical area buffer width and/or building setback, whichever is greater;
  - c. Within a distance equal to or less than one-half mile (2,640 feet) from a bald eagle nest;
  - d. Within a distance equal to or less than 200 feet upland from a stream, wetland, or water body;
  - e. Within a floodway, floodplain, or channel migration zone; or
  - f. Within 200 feet from a critical aquifer recharge area.

## 2. General provisions

a. The presence of any known critical areas on or within one hundred (100) feet of property that is the subject of a development permit shall be identified by the applicant in the application materials submitted to the city.

b. In carrying out any of the provisions of this section, the city may utilize any available technical resources, with any associated costs being paid for by the applicant, including experts/professionals in a particular field, and maps and/or documents including without limitation the following:

- 1) City of Tonasket Comprehensive Plan and critical area maps;
- 2) Tonasket shoreline master program and maps;
- 3) Okanogan County Level I, Level II and Level III Habitat Maps;
- 4) US Fish and Wildlife Service National Wetlands Inventory;
- 5) U.S.G.S. 7.5 Minute Series Topographic Quadrangle Maps;
- 6) Aerial photos;
- 7) Approved special reports previously completed for a subject property;
- 8) Natural Resources Conservation Service Soils Survey;
- 9) Federal Wetlands Delineation Manual (1987);
- 10) Washington State Wetlands Identification and Delineation Manual (WDOE #96-94, March 1997, as amended);
- 11) Washington State Wetlands Rating System for Eastern Washington-Revised (WDOE 14-06-030, as updated);
- 12) Management Recommendations for Washington’s Priority Habitats and Species, May 1991, as amended;
- 13) Management Recommendations for Washington’s Priority Habitats- Riparian, December 1997, as amended;
- 14) Priority Habitats and Species List, July 1999, as amended;
- 15) US Army Corps of Engineers. (2006). Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region. (Version 2.0), as amended;
- 16) Wetlands in Washington State- Volume 1: A Synthesis of the Science. Washington State Department of Ecology. Publication #05-06-006; and
- 17) Wetlands in Washington State- Volume 2: Guidance for Protecting and Managing Wetlands. Washington State Department of Ecology. Publication #05-06-008.

## 3. Special studies required

If the Administrator determines that the site of a proposed shoreline development potentially includes, or is adjacent to, a critical area(s), the applicant shall be notified in writing that a

special study may be required. When required, the expense of undertaking the special study(ies) shall be borne by the applicant. The applicant's choice of consultant or technical expert and the content, format and extent of the special study(ies) shall be approved by Administrator.

- a. The requirement for special studies may be waived by the Administrator if there is substantial showing that:
  - 1) There will be no alteration of the critical area(s) and/or the required buffer(s);
  - 2) The proposal will not impact the critical area(s) in a manner contrary to the purpose, intent and requirements of this Chapter and the comprehensive plan; and
  - 3) The minimum standards of this section will be met.
- b. No special study is required for development proposals that are exempt from the provisions of this section.
- c. When required, a special study shall be conducted by a qualified professional who is knowledgeable about the specific critical area(s) in question. In general, any required special study shall contain at least the following information, in addition to any other specific information determined pertinent by the Administrator (specific plan and special study requirements are found in applicable Critical Area sections below):
  - 1) A map, of a scale no smaller than one-inch equals two hundred (200) feet, showing the existing features on the site, such as topography, vegetation, etc., and including the extent of any critical area(s), and the plan for the proposed activity showing the relationship to the location of the critical area(s);
  - 2) A written analysis of the existing critical area(s) and a description of how the proposed development will or will not impact the ecological functions and values of the critical area(s); and
  - 3) A description (written and/or graphic) of any proposed mitigation measures/activities to address impacts to the critical area(s).

#### **4. General process**

The provisions of this section shall be implemented during the applicable review process for the requested shoreline permit approval, in accordance with the provisions of this Chapter.

#### **5. Surety/bonding**

If a development proposal within a designated critical area within shoreline jurisdiction is subject to mitigation, maintenance or monitoring plans, the city of Tonasket, in a form acceptable to the city attorney, may require an assurance device or surety.

#### **6. Permit conditions**

Through the shoreline development review process, the city of Tonasket shall have the authority to attach such conditions to the granting of any approval under this section as deemed necessary to alleviate adverse impacts to critical area(s) and to carry out the provisions of this Chapter. Such conditions of approval may include, but are not limited to the following:

- 1) Limitations on minimum lot sizes;

- 2) Provisions for additional buffers relative to the intensity of a use or activity;
- 3) Requirements and/or restrictions on the construction, size, location, bulk and/or height, etc., of structure(s);
- 4) Dedication of necessary easements for utilities, conservation, open space, etc.;
- 5) Imposition of easement agreements, sureties, deed restrictions, covenants, etc., on the future use and/or division of land;
- 6) Limitations on the removal of existing vegetation;
- 7) Additional measures to address issues such as erosion control, storm water management, filling, grading, etc.;
- 8) Development of a plan to create, enhance, or restore damaged or degraded critical area(s) on and/or off site; and
- 9) Any monitoring and/or maintenance plans necessary to implement the provisions of this Chapter.

## **B. Aquifer Recharge Areas**

All areas within shoreline jurisdiction in Tonasket are designated as aquifer recharge based on soil types (See Map A7 in the Map Appendix to the Tonasket Comprehensive Plan). The general regulations in 18.08.060 and specific use and activity regulations in 18.08.070 are intended to protect these areas.

1. Development, uses and activities within identified aquifer recharge areas shall comply with the regulations contained in this Chapter and be subject to best management practices in compliance with the Eastern Washington Storm Water Management Manual. Any discharges that negatively affect an aquifer recharge area's water quality are prohibited.
2. For aquifer recharge areas found inside the shoreline jurisdiction, the following standards for development shall be required in addition to the general provisions of this Chapter and the requirements of the underlying zone, the following minimum standards shall apply to development activities within and adjacent to aquifer recharge areas:
  - a. A hydrogeologic study and/or ongoing monitoring may be required to assess impacts of development activities on groundwater resources.
  - b. All storage tanks, whether above- or underground shall be required to be constructed so as to protect against corrosion for the operational life of the tank, to prevent any release of hazardous substances to the ground, groundwaters, or surface waters, and to utilize appropriate containment methods.
  - c. Application of pesticides, herbicides and fertilizers within aquifer recharge areas shall comply with timing and rates specified on product packaging.
  - d. Vehicle repair and servicing activities must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

### **C. Fish & Wildlife Habitat Conservation Areas**

Nearly all of the area within shoreline jurisdiction in Tonasket is designated as fish & wildlife habitat, primarily related to the limited riparian areas immediately adjoining the OHWM of the Okanogan River (See Map A8 in Map Appendix to Tonasket Comprehensive Plan). The shoreline designation applied to these areas – Urban Conservancy, and the regulations in 18.08.060 and specific use and activity regulations in 18.08.070 contained in this Chapter have been developed to protect these critical areas and ensure no net loss.

1. Development, uses and activities within or near identified fish and wildlife conservation areas shall comply with the regulations contained in this Chapter.

### **D. Frequently Flooded Areas.**

Portions of the area within shoreline jurisdiction in Tonasket and its UGA are designated as frequently flooded (flood hazard areas), primarily outside of the corporate limits which is protected by an Army Corps of Engineers certified levee (See Map A10 in Map Appendix to Tonasket Comprehensive Plan). The shoreline designation applied to these areas, excluding unincorporated land within the Colville Reservation, is Urban Conservancy, and the regulations in 18.08.060 and specific use and activity regulations in 18.08.070 contained in this Chapter have been developed to protect these critical areas and ensure no net loss.

1. Development, uses and activities within identified frequently flooded areas which are also within shoreline jurisdiction shall comply with the general regulations in this Chapter, the specific regulations in this Section and be compliant with Chapter 14.28 Tonasket Municipal Code.
2. Standards. In addition to the general provisions of this Chapter and the requirements of the underlying zone, frequently flooded areas found inside shoreline jurisdiction, the following minimum standards for shall apply to development activities within and adjacent to frequently flooded areas:
  - a. All development within frequently flooded areas shall be reviewed under and subject to the requirements of Chapter 14.28, Flood Damage Prevention, of the Tonasket Municipal Code.
  - b. Where frequently flooded areas coincide with other designated critical areas, critical areas reports, and mitigation plans shall address any combined functions and values.
  - c. Structures shall be located outside of frequently flooded areas except where no alternative location exists.
  - d. Fill and grading in frequently flooded areas shall only occur upon a determination by a qualified professional that the fill or grading will not block side channels, inhibit channel migration, increase flood hazards to others, or be placed within a defined channel migration zone, whether or not the city has delineated such zones as of the time of application.
  - e. Subdivision in frequently flooded areas is subject to the following:

- 1) All lots created shall have adequate building space outside flood hazard areas, including the floodway and channel migration zones and protect the functions and values of frequently flooded areas;
- 2) Plat maps shall indicate the location of the floodway, one-hundred-year floodplain with related elevations where applicable and channel migration zones;
- 3) Subdivisions shall be designed to minimize or eliminate the potential for flood damage; and
- 4) Subdivisions shall provide for storm water drainage, in accordance with city standards, so as to reduce exposure to flood hazards.

#### **D. Geologically hazardous areas**

According to Map A11 in the Map Appendix to the Tonasket Comprehensive Plan there are designated geologically hazardous areas within shoreline jurisdiction in the City of Tonasket and its adopted Urban Growth Area.

1. Development, uses and activities within identified geologically hazardous areas shall comply with the regulations contained in Section 18.08.060 and the following:
  - a. New development or the creation of new lots that would cause foreseeable risk from geological conditions to people or improvements during the life of the development is prohibited.
  - b. New development that would require structural shoreline stabilization over the life of the development is prohibited. Exceptions may be made for the limited instances where stabilization is necessary to protect allowed uses where no alternative locations are available and no net loss of ecological functions will result. The stabilization measures shall conform to WAC [173-26-231](#).
  - c. Where no alternatives, including relocation or reconstruction of existing structures, are found to be feasible, and less expensive than the proposed stabilization measure, stabilization structures or measures to protect existing primary residential structures may be allowed in strict conformance with WAC [173-26-231](#) requirements and then only if no net loss of ecological functions will result.

#### **E. Wetlands**

There are limited wetland areas designated within the City of Tonasket and its Urban Growth Area. Map A9 in the Map Appendix to the Tonasket Comprehensive Plan (based on USF&W Service National Wetlands Inventory) shows that wetlands within shoreline jurisdiction are very limited and primarily directly adjoining the water. Development and activities within or adjoining designated wetlands or associated wetland buffers are limited to those uses authorized by this Chapter, and are subject to the provisions of this Chapter in general and this section specifically.

1. **Identification and rating**
  - a. Wetlands shall be identified and delineated by a qualified wetland professional in



accordance with WAC 173-22-035 and designated based on the definitions, methods and standards set forth in the currently approved Federal Wetland Delineation Manual and supplements. The City may use the following information sources as guidance in identifying the presence of wetlands and the subsequent need for a wetland delineation study:

- 1) Hydric soils, soils with significant soil inclusions, and "wet spots" identified within the local soil survey;
- 2) National Wetlands Inventory;
- 3) Previous wetland rating evaluation; and,
- 4) On-site inspection

b. Wetland delineations are valid for five years after such date the Administrator shall determine whether a revision or additional assessment is necessary. The wetland boundary and any associated buffer area shall be identified on all plats, maps, plans and specifications submitted for the project. An evaluation of any unrated wetland is necessary when there is a proposed development or activity to be located adjacent to, or within an area containing a wetland.

c. Rating. Wetlands ratings shall be conducted by a qualified wetland specialist and be rated according to the Washington Department of Ecology wetland rating system, as set forth in the *Washington State Wetland Rating System for Eastern Washington* (Ecology Publication #14-06-030, or as revised and approved by Ecology).

d. Illegal modifications. Wetland rating categories shall not change due to illegal modifications made by the applicant or with the applicant's knowledge or previous owner(s) in cases where the City has started enforcement actions and the owner sells/transfers ownership during the proceedings.

## 2. Regulated Activities.

a. The following activities are subject to the General Regulations in this Chapter and the specific regulations of this Section if they occur in a regulated wetland or its buffer:

- 1) The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind.
- 2) The dumping of, discharging of, or filling with any material.
- 3) The draining, flooding, or disturbing the water level or water table.
- 4) Pile driving.
- 5) The placing of obstructions.
- 6) The construction, reconstruction, demolition, or expansion of any structure.
- 7) The destruction or alteration of wetland vegetation through clearing, harvesting, shading, intentional burning, or planting of vegetation that would alter the character of a regulated wetland.
- 8) Activities that result in:
  - (a) A significant change of water temperature.

- (b)** A significant change of physical or chemical characteristics of the sources of water to the wetland.
- (c)** A significant change in the quantity, timing or duration of the water entering the wetland.
- (d)** The introduction of pollutants.

**b.** For any regulated activity, a critical areas report or wetland critical areas report (see Chapter 19.05.030 TMC) may be required to support the requested activity.

### **3. Exemptions and Allowed Uses in Wetlands**

**a.** The following wetlands are exempt from the buffer provisions contained in this Chapter and the normal mitigation sequencing process described in Chapter 19.05.037 TMC. They may be filled if impacts are fully mitigated based on provisions in Chapter 19.05.037 TMC. In order to verify the following conditions, a critical area report for wetlands meeting the requirements in Chapter 19.05.030 TMC must be submitted.

- 1)** All isolated Category III and IV wetlands less than 1,000 square feet that:
  - a)** Are not associated with riparian areas or buffer.
  - b)** Are not part of a wetland mosaic.
  - c)** Do not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife or species of local importance identified on Map VII-3 in the Map Appendix to the Tonasket Comprehensive Plan.
  - d)** Are not a vernal pool.
  - e)** Are not an alkali wetland.
  - f)** Do not contain aspen stands.

**b.** Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. These activities do not require submission of a critical area or wetland critical area report, except where such activities result in a loss of the functions and values of a wetland or wetland buffer. These activities include:

- 1)** Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.
- 2)** The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
- 3)** Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be disturbed.

4) Enhancement of a wetland through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Re-vegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

5) Educational and scientific research activities

6) Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not expand the footprint or use of the facility or right-of-way.

#### 4. Wetland Buffers

**a. Buffer Requirements.** The standard buffer widths in 18.08.080 Table 2 have been established in accordance with the best available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington state wetland rating system for eastern Washington.

1) The use of the standard buffer widths **requires** the implementation of the measures in 18.08.080 Table 2, where applicable, to minimize the impacts of the adjacent land uses.

2) If an applicant chooses not to apply the mitigation measures in 18.08.080 Table 3 then a 33% increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.

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

4) Additional buffer widths are added to the standard buffer widths. For example, a Category I wetland scoring 32 points for habitat function would require a buffer of 150 feet (75 + 75).

**18.08.080 Table 1 Wetland Buffer Requirements**

Wetland Category	Buffer width (in feet) based on habitat score			
	3-4	5	6-7	8-9
Category I: Based on total score	75	90	120	150
Category I: Forested	75	90	120	150
Category I: Bogs and Wetlands of High Conservation Value	190			
Category I: Alkali	150			
Category II: Based on total score	75	90	120	150
Category II: Vernal pool	150			
Category II: Forested	75	90	120	150
Category III (all)	60	90	120	150
Category IV (all)	40			

**18.08.080 Table 2 Required measures to minimize impacts to wetlands**  
 (Measures are required, where applicable to a specific proposal)

<b>Disturbance</b>	<b>Required Measures to Minimize Impacts</b>
Lights	Direct lights away from wetland
Noise	Locate activity that generates noise away from wetland If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer
Toxic runoff	Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered Establish covenants limiting use of pesticides within 150 ft of wetland Apply integrated pest management
Storm water runoff	Retrofit storm water detention and treatment for roads and existing adjacent development Prevent channelized flow from lawns that directly enters the buffer Use Low Intensity Development techniques (per PSAT publication on LID techniques)
Change in water regime	Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion; Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	Use best management practices to control dust
Disruption of corridors or connections	Maintain connections to offsite areas that are undisturbed Restore corridors or connections to offsite habitats by replanting

**5) Increased Wetland Buffer Area Width.** Buffer widths shall be increased on a case-by-case basis as determined by the Administrator when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include but not be limited to the following criteria:

- a) The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
  - b) The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
  - c) The adjacent land has minimal vegetative cover or slopes greater than 30 percent.
- 6) Buffer averaging to *improve wetland protection* may be permitted when **all** of the following conditions are met:
- a) The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a “dual-rated” wetland with a Category I area adjacent to a lower-rated area.
  - b) The buffer is increased adjacent to the higher-functioning area of habitat or more-sensitive portion of the wetland and decreased adjacent to the lower-functioning or less-sensitive portion as demonstrated by a critical areas report from a qualified wetland professional.
  - c) The total area of the buffer after averaging is equal to the area required without averaging.
  - d) The buffer at its narrowest point is never less than either  $\frac{3}{4}$  of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.
- 7) Averaging to *allow reasonable use* of a parcel may be permitted when **all** of the following are met:
- a) There are no feasible alternatives to the site design that could be accomplished without buffer averaging.
  - b) The averaged buffer will not result in degradation of the wetland’s functions and values as demonstrated by a critical areas report from a qualified wetland professional. The total buffer area after averaging is equal to the area required without averaging.
  - c) The buffer at its narrowest point is never less than either  $\frac{3}{4}$  of the required width or 75 feet for Category I and II, 50 feet for Category III and 25 feet for Category IV, whichever is greater.

**b. Measurement of Wetland Buffers.** All buffers shall be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers or included in buffer area calculations.

**c. Buffers on Mitigation Sites.** All mitigation sites shall have buffers consistent with the buffer requirements of this Section. Buffers shall be based on the expected or target category of the proposed wetland mitigation site.

**d. Buffer Maintenance.** Except as otherwise specified or allowed in accordance with this Section, wetland buffers shall be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive non-native weeds is required for the duration of the mitigation bond.

**e. Impacts to Buffers.** A wetland management and mitigation plan shall be required when impacts associated with development within a wetland or wetland buffer are unavoidable, demonstrated by compliance with requirements for the compensation for impacts to buffers outlined in Chapter 19.05.037 TMC.

**f. Overlapping Critical Area Buffers.** If buffers for two contiguous critical areas overlap (such as buffers for a stream and a wetland), the wider buffer applies.

**g. Allowed Buffer Uses.** The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Section, provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:

- 1) Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
- 2) Passive recreation. Passive recreation facilities designed and in accordance with an approved critical area report, including:
  - a) Walkways and trails, provided that those pathways are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-leaching best practice of non-treated pilings may be acceptable.
  - b) Wildlife-viewing structures.
- 3) Educational and scientific research activities.
- 4) Normal and routine maintenance and repair of any existing public or private facilities within an existing right-of-way, provided that the maintenance or repair does not increase the footprint or use of the facility or right-of-way.
- 5) The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of

soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.

**6)** Drilling for utilities/utility corridors under a buffer, with entrance/exit portals located completely outside of the wetland buffer boundary, provided that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.

**7)** Enhancement of a wetland buffer through the removal of non-native invasive plant species. Removal of invasive plant species shall be restricted to hand removal. All removed plant material shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at natural densities is allowed in conjunction with removal of invasive plant species.

**8)** Storm water management facilities. Storm water management facilities are limited to storm water dispersion outfalls and bioswales. They may be allowed within the outer twenty-five percent (25%) of the buffer of Category III or IV wetlands only, provided that:

- a)** No other location is feasible; and
- b)** The location of such facilities will not degrade the functions or values of the wetland; and
- c)** Storm water management facilities are not allowed in buffers of Category I or II wetlands.

**9)** Non-Conforming Uses. Repair and maintenance of non-conforming uses or structures, where legally established within the buffer, provided they do not increase the degree of nonconformity.

**5. Signs and Fencing of Wetlands and Buffers.**

**a.** Temporary markers. The outer perimeter of the wetland buffer and the clearing limits identified by an approved permit or authorization shall be marked in the field with temporary “clearing limits” fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Administrator prior to the commencement of permitted activities. This temporary marking shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

**b.** Permanent signs. As a condition of any permit or authorization issued pursuant to this Section, the Administrator may require the applicant to install permanent signs along the boundary of a wetland or buffer.

**1)** Permanent signs shall be made of an enamel-coated metal face and attached to a metal post or another non-treated material of equal durability. Signs must be posted at an interval of one (1) per lot or every fifty (50) feet, whichever is less, and must be



maintained by the property owner in perpetuity. The signs shall be worded as follows or with alternative language approved by the Administrator:

**Protected Wetland Area Do Not Disturb  
Contact city of Tonasket Regarding  
Uses, Restrictions, and Opportunities for  
Stewardship**

- 2) The provisions of Subsection (a) may be modified as necessary to assure protection of sensitive features or wildlife.
- c. Fencing
- 1) The applicant shall be required to install a permanent fence around the wetland or buffer when domestic grazing animals are present or may be introduced on site.
  - 2) Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes impacts to the wetland and associated habitat.

6. **Critical Area Report requirements** for Wetlands are found in Chapter 19.05.030.

7. **Mitigation and Compensatory Mitigation** requirements for wetlands are found in Chapter 19.05.037 and the performance standards in 18.08.060 E. 4.

**Commented [MOU13]: [COMMENT 21 – PR 2009(b)] – Consider updating and determine appropriate place.8**

The SMP includes a reference to “mitigation and compensatory mitigation” Chapter 19.05.037 and performance standards in 18.08.060, approximately at page 92; but does not appear to include Ecology’s suggested language about “credits.”

### 18.08.090 Shorelines Designations Map.

The location and boundaries of the shoreline designations applied in this Chapter are established as shown on the map entitled the Tonasket shorelines map. The shorelines map shall be adopted by ordinance with the ordinance number shown thereon, the date adopted, and shall be signed by the mayor. The signed map shall be maintained on display at City Hall and considered a part of this title.

#### A. Interpretation of shoreline designations map.

Where uncertainty exists as to the boundaries of shorelines designations as shown on the Tonasket Shorelines Designation Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such centerlines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following the corporate limits of the city shall be construed as following the corporate limits of the city;
4. Boundaries indicated as following shorelines shall be construed to following such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, lakes or other bodies of water shall be construed to follow such centerlines;

5. Boundaries indicated as parallel to or extensions of features indicated in subsections (A) through (E) of this section shall be so construed. Distances not specifically indicated on the Tonasket shorelines designation map shall be determined by the scale of the map;

6. Where physical or cultural features existing on the ground are inconsistent with those shown on the Tonasket Shoreline Designations Map or in other circumstances not covered by subsections (A) through (F) of this section, the administrator shall interpret the designation boundaries.

**B. Designations of shorelines in annexations.**

Any shoreline areas annexed to the city shall be designated consistent with the comprehensive plan shoreline designation for the area to be annexed.

### **18.08.100 Non-Conforming Structures**

A. Structures that were legally established and are used for a use conforming at the time of establishment, but which are nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density established in this Chapter may be maintained and repaired and may be enlarged or expanded upon issuance of a Conditional Use Permit provided that no reasonable alternative use is practical and the proposed use will be at least as consistent with the policies and provisions of the act and this SMP and as compatible with the uses in the area as the preexisting use.

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

C. A nonconforming structure which is moved any distance must be brought into compliance with this SMP.

D. If a nonconforming development is damaged, it may be reconstructed provided the resulting configuration does not increase the nonconformity as it existed immediately prior to the time the development was damaged. An application shall be made for permits necessary to restore the development within one year of the date the damage occurred, all permits are obtained, and the restoration is completed within two years of permit issuance unless otherwise extended.

E. Nothing in this section shall be deemed to prevent the normal maintenance and repair of a nonconforming structure or its restoration to a safe condition when declared to be unsafe by any official charged with protecting the public safety.

### **18.08.105 Non-Conforming Uses.**

A. Uses and developments that were legally established and are nonconforming with regard to the use regulations of this Chapter may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single-family residences and water related commercial uses that are located landward of the OHWM may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in 18.08.040 upon approval of a Conditional Use Permit.

B. A use which is listed as a conditional use, but which existed prior to adoption of this Chapter or any relevant amendment and for which a Conditional Use Permit has not been obtained, shall be considered a legal nonconforming use.

C. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a Conditional Use Permit. A Conditional Use Permit may be approved only upon a finding that:

1. The proposed use will be at least as consistent with the policies and provisions of the Act and this Chapter and as compatible with the uses in the area as the preexisting use. In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of this Chapter and the Act, and to assure that the use will not become a nuisance or a hazard.

D. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to this section shall be considered a conforming use for purposes of this section.

### **18.08.110 Non-Conforming Lots.**

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

### **18.08.115 Violations and Penalties.**

A. This part is adopted under RCW [90.58.200](#) and [90.58.210](#) to implement the enforcement responsibilities of the department and the city under the Shoreline Management Act. The act calls for a cooperative program between the city and the state. It provides for a variety of means of enforcement, including civil and criminal penalties, orders to cease and desist, orders to take corrective action, and permit rescission. The following should be used in addition to other mechanisms already in place at the local level and does not preclude other means of enforcement.

**B. Policy.** These regulations should be used by the city in carrying out enforcement responsibilities under the act. Enforcement action by the department or the city may be taken whenever a person has violated any provision of the act or this Chapter or other regulation promulgated under the act. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the persons subject to the enforcement action.

C. Order to cease and desist. The City and/or the department shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of chapter [90.58](#) RCW or this Chapter.

1. **Content of order.** The order shall set forth and contain:
  - a. A description of the specific nature, extent, and time of violation and the damage or potential damage; and
  - b. A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under WAC [173-27-280](#) may be issued with the order.

**2. Effective date.** The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.

**3. Compliance.** Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

**D. Civil penalty.**

**1.** A person who fails to conform to the terms of a substantial development permit, conditional use permit or variance issued under RCW ~~90.58.140~~, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a cease and desist order issued under these regulations may be subject to a civil penalty by local government. The department may impose a penalty jointly with city, or alone only upon an additional finding that a person:

- a. Has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule; or
- b. Has been given previous notice of the same or similar type of violation of the same statute or rule; or
- c. The violation has a probability of placing a person in danger of death or bodily harm; or
- d. Has a probability of causing more than minor environmental harm; or
- e. Has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars.

**2.** In the alternative, a penalty may be issued to a person by the department alone, or jointly with the city for violations which do not meet the criteria of subsection (1) through (5) of this subsection, after the following information has been provided in writing to a person through a technical assistance visit or a notice of correction:

- a. A description of the condition that is not in compliance and a specific citation to the applicable law or rule;
- b. A statement of what is required to achieve compliance;
- c. The date by which the agency requires compliance to be achieved;
- d. Notice of the means to contact any technical assistance services provided by the agency or others; and
- e. Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency.

Furthermore, no penalty shall be issued by the department until the individual or business has been given a reasonable time to correct the violation and has not done so.

**3. Amount of penalty.** The penalty shall not exceed one thousand dollars for each violation. Each day of violation shall constitute a separate violation.

**4. Aiding or abetting.** Any person who, through an act of commission or omission procures aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

**5. Notice of penalty.** A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the department and/or the local government, or from both jointly. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.

#### **E. Appeal of civil penalty.**

**1. Right of appeal.** Persons incurring a penalty imposed by the department or imposed jointly by the department and the city may appeal the same to the shorelines hearings board. Appeals to the shorelines hearings board are adjudicatory proceedings subject to the provisions of chapter [34.05](#) RCW. Persons incurring a penalty imposed by local government may appeal the same to the local government legislative authority.

**2. Timing of appeal.** Appeals shall be filed within thirty days of the date of receipt of the penalty. The term "date of receipt" has the same meaning as provided in RCW [43.21B.001](#).

#### **3. Penalties due.**

**a.** Penalties imposed under this section shall become due and payable thirty days after receipt of notice imposing the same unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty days after receipt of the city and/or the department's decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable upon completion of all review proceedings and upon the issuance of a final decision confirming the penalty in whole or in part.

**b.** If the amount of a penalty owed the department is not paid within thirty days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington to recover such penalty. If the amount of a penalty owed to the city is not paid within thirty days after it becomes due and payable, the city may take actions necessary to recover such penalty.

**4. Penalty recovered.** Penalties recovered by the department shall be paid to the state treasurer. Penalties recovered by the city shall be paid to the local government treasury. Penalties recovered jointly by the department and the city shall be divided equally between the department and the city unless otherwise stipulated in the order.

#### **F. Criminal penalty.**

The procedures for criminal penalties shall be governed by RCW [90.58.220](#).

**1. Prosecution.** Every person violating any of the provisions of this Chapter or the Shoreline Management Act of 1971 shall be punishable under conviction by a fine not exceeding five hundred dollars (\$500.00), or by imprisonment not exceeding 90 days, or by both such fine and imprisonment, and each day's violation shall constitute a separate punishable offense.

#### **G. Injunction.**

The City Attorney may bring such injunctive, declaratory or other actions as are necessary to ensure that no uses are made of the shorelines of the State within the City's jurisdiction which

are in conflict with the provisions and programs of this Chapter or the Shoreline Management Act of 1971, and to otherwise enforce provisions of this Section and the Shoreline Management Act of 1971.

#### **H. Violators Liable for Damages.**

Any person subject to the regulatory program of this Chapter who violates any provision of this Chapter or the provisions of a permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The City Attorney may bring suit for damages under this subsection on behalf of the City. Private persons shall have the right to bring suit for damages under this subsection on their own behalf and on behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by violation, the Court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including monetary damages, the Court in its discretion may award attorney's fees and costs of the suit to the prevailing party.

#### **17.46.120 Unauthorized Wetlands Alterations and Enforcement**

**A.** When a wetland or its buffer has been altered in violation of this chapter, all ongoing development work shall stop and the wetland and/or buffer 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 Section.

**B.** Requirement for Restoration Plan. All development work shall remain stopped until a restoration plan is prepared and approved by 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 in Chapter 19.02.025 BMC. 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.** Minimum Performance Standards for Restoration. 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:

1. The historic structure, functions, and values of the affected wetland shall be restored, including water quality and habitat functions.
2. The historic soil types and configuration shall be restored to the extent practicable.
3. 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.
4. Information demonstrating compliance with other applicable provisions of this Chapter 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 Chapter. The Administrator shall present proper

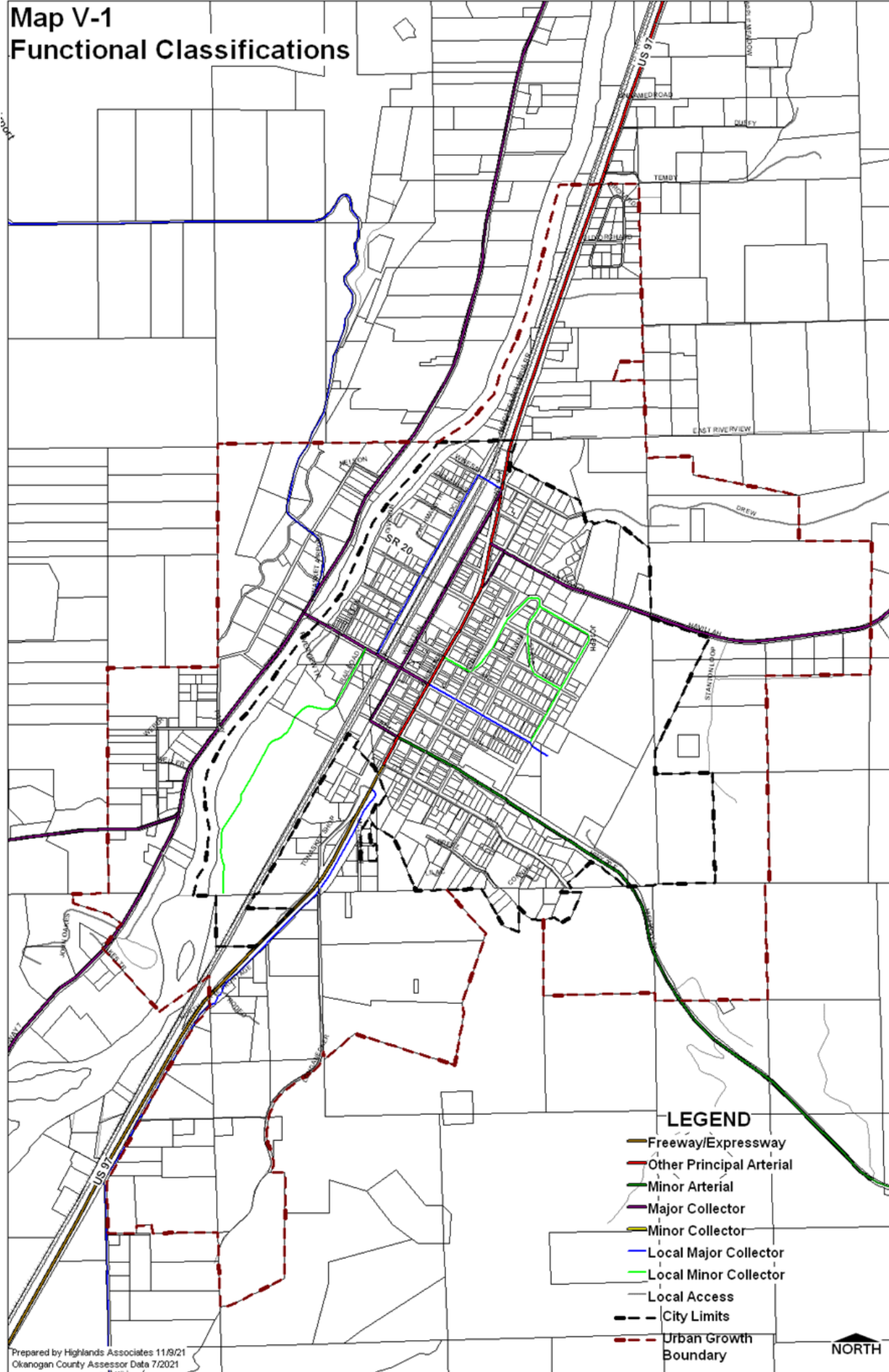
credentials and make a reasonable effort to contact any property owner before entering onto private property.

**E.** Penalties. Any person, party, firm, corporation, or other legal entity convicted of violating any of the provisions of this Section shall be guilty of a misdemeanor.

**a.** Each day or portion of a day during which a violation of this Chapter is committed or continued shall constitute a separate offense. Any development carried out contrary to the provisions of this Chapter 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 Chapter. The civil penalty shall be assessed at a maximum rate of \$100 per day per violation.

**b.** 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 cities in the watershed to optimize the effectiveness of the restoration action.

### Map V-1 Functional Classifications





# Map III-7 Critical Areas - Flood Hazard Areas Map

