



CITY OF MOSES LAKE
STAFF REPORT

To: John Williams, City Manager
From: Gilbert Alvarado, Community Dev. Dir/Deputy City Manager
Date: June 28, 2016
Proceeding Type: Motion
Subject: Ordinance - Blanchet Drive - Right of Way (ROW) Vacation Request

Legislative History:

• First Presentation:	June 14, 2016 – Public Hearing
• Second presentation:	June 28, 2016
• Action:	Motion

Staff Report Summary

The City Council should consider a request from Gregory and Marla Huff to vacate a portion of Right-of-Way (ROW), described as Blanchet Ave adjacent to Lot 1, Block 1, HLH Plat. On May 10, 2016 at a regular meeting, the City Council set a public hearing for June 14, 2016 to consider the merits of the vacation and Ordinance vacating described ROW. The Council opened the public hearing and took testimony on the request.

Attached is an Ordinance vacating those portions of Blanchet as detailed by the legal description and map.

Background

Gregory and Marla Huff are requesting the vacation of a portion of unimproved ROW that abuts their property. The Huff's have voiced their concerns in the past over the maintenance of the unimproved ROW and are requesting to vacate in order to maintain the ownership.

Fiscal and Policy Implications

The ROW would no longer be a maintenance responsibility of the City of Moses Lake if vacated. The proponents would also have potential fiscal implications in that the City Council may require reimbursement of up to half the appraised value of the property to be vacated. The reimbursement calculation by the Municipal Services Director is in the amount of \$6,174 dollars.

Options

<i>Option</i>	<i>Results</i>
<ul style="list-style-type: none">Consider the request to vacate the ROW	The adjacent property owners each retain half of the vacated ROW to maintain.
<ul style="list-style-type: none">Consider the request to vacate the ROW and take no action	ROW remains as is and unimproved

Staff Recommendation

Staff would recommend that the City Council approve the Ordinance vacating portions of Blanchet as described.

Attachments

A.	Ordinance No. 2816 /Legal Description
B.	Map
C.	Copy of Land Use Action Application
D.	Copy of Request from Gregory and Marla Huff

Legal Review

The following documents are attached and subject to legal review:

Type of Document	Title of Document	Date Reviewed by Legal Counsel

ORDINANCE NO. 2816

AN ORDINANCE VACATING A PORTION OF BLANCHET AVENUE

THE CITY COUNCIL OF THE CITY OF MOSES LAKE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. The following described public right-of-way shall be vacated:

That portion of Blanchet Avenue, formerly known as Sixth Avenue, dedicated on the Plat of Park Orchard Tracts, Per Grant County Plat records Book 1, Page 36, located in the SW ¼, Section 15, Township 19 North, Range 28 East. W.M., City of Moses Lake, Grant County, Washington, described as follows:

A 43.00 foot wide portion of Blanchet Avenue adjacent to Lot 1, Block 1, H.L.H. Plat, recorded in book 11 of Major Plats, pages 56 and 57, records of Grant County, Washington, more particularly described as follows:

BEGINNING at the easterly most corner of said Lot 1; Thence S62°12'45"W along the southerly line of said lot 1 a distance of, 180.60 feet; Thence S00°10'05"W along an extension of the west line of said Lot 1, a distance of 48.65 feet; Thence N62°12'45"E along a 43 feet distant from and parallel to the southeasterly line of said Lot 1, a distance of 183.17 feet to a 40.00 foot radius non-tangent curve concave to the east; Thence along the arc of said curve to the right, through a central angle of 45°50'21", an arc distance of 32.00 feet, having a chord bearing N02°26'48"W, 31.16 feet to the point of reverse curvature of a 20.00 foot radius curve concave to the West; Thence along the arc of said curve to the left through a central angle of 48°01'31", an arc distance 16.76 feet to the POINT OF BEGINNING.

Said tract of land contains 7775 square feet, more or less.

SUBJECT TO

A Public Utility Easement across the above described parcel, more particularly described as follows:

The southeasterly 5 feet.

Section 2. The city shall be compensated for one half the appraised value of the vacated property. The vacation shall not become effective until the required compensation is received by the city.

Section 3. This ordinance shall take effect and be in force five (5) days after its passage and publication of its summary as provided by law.

Adopted by the City Council and signed by its Mayor on June 28, 2016

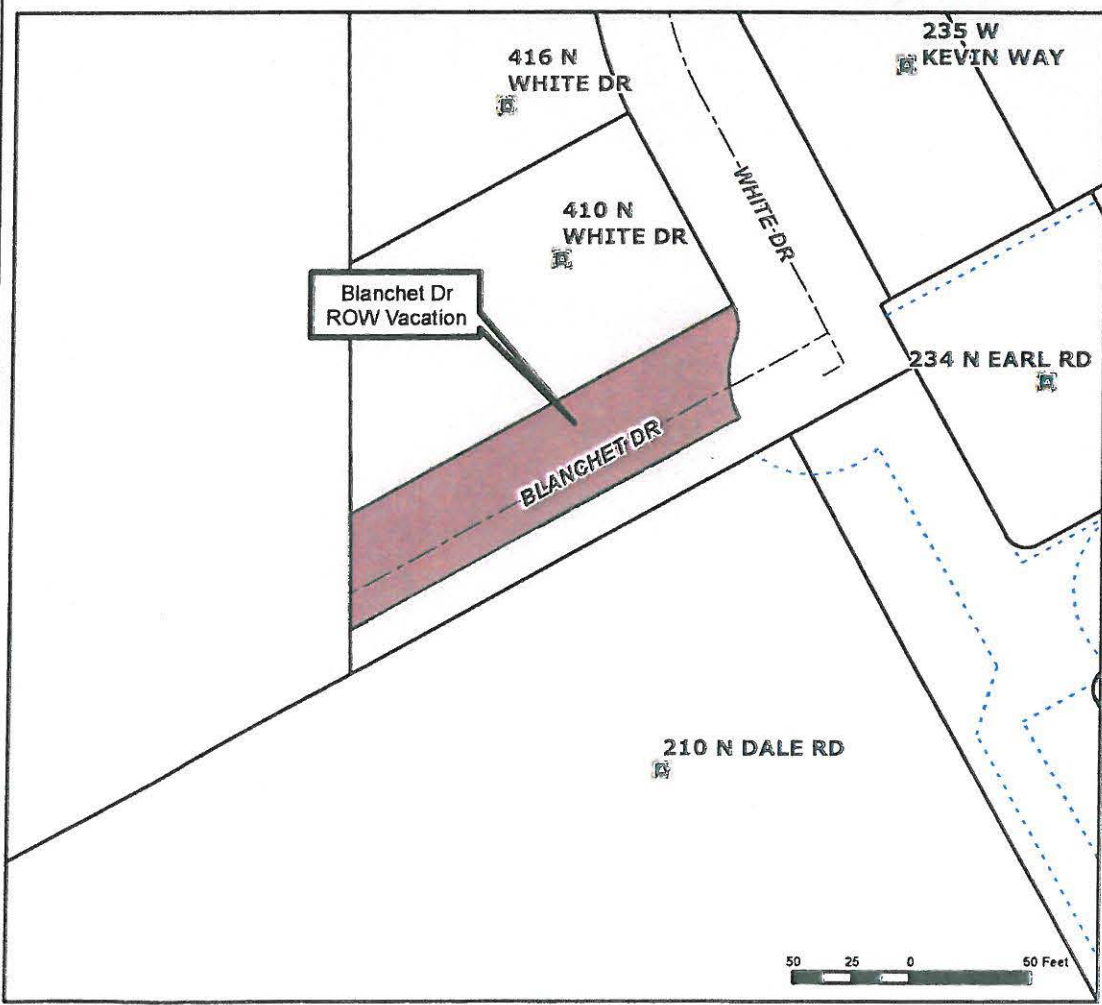
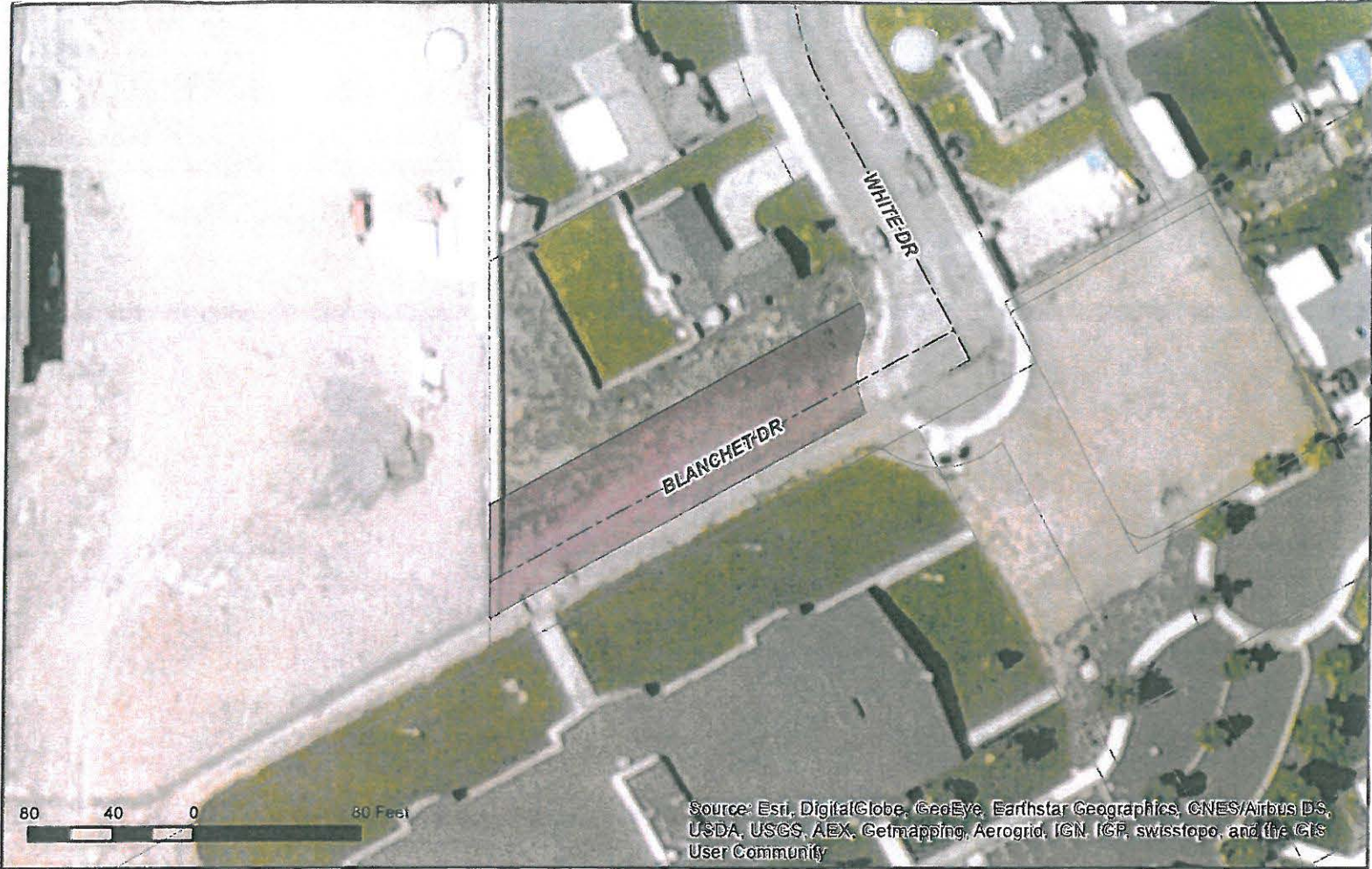
ATTEST:

Todd Voth, Mayor

W. Robert Taylor, Finance Director

APPROVED AS TO FORM:

Katherine L. Kenison, City Attorney



LEGEND	
	COUNCIL AGENDA SITE
	CITY LIMITS
	UGA BOUNDARY
	MOSES LAKE



ROW VACATION



CITY OF MOSES LAKE
COMMUNITY DEVELOPMENT
PLANNING DIVISION

Date: 4/28/2016

CMS

CITY OF MOSES LAKE

(509)764-3750 Fax(509)764-3758

<input type="checkbox"/>	Binding Site Plan	\$300
<input type="checkbox"/>	Conditional Use Permit	\$250
<input type="checkbox"/>	Environmental Checklist	\$250
<input type="checkbox"/>	Amend Comp Plan/Development Reg's	\$200
<input type="checkbox"/>	Planned Unit Development	Prelim \$200 - Final \$225
<input type="checkbox"/>	Zoning Variance	\$100 + fees
<input type="checkbox"/>	Zone Change	\$250
<input type="checkbox"/>	Short Subdivision	Prelim \$300 - Final \$200
<input type="checkbox"/>	Major Subdivision	Prelim \$500 - Final \$400
<input type="checkbox"/>	Annexation	\$400
<input checked="" type="checkbox"/>	Right-of-Way Vacation	\$200
<input type="checkbox"/>	And Appraisal Fee	\$400
<input type="checkbox"/>	Shoreline Application Determination	\$100
<input type="checkbox"/>	Shoreline Substantial Dev. and/or CUP	\$200
<input type="checkbox"/>	Exempt	No Addition Fee
<input type="checkbox"/>	Variance	\$100
<input type="checkbox"/>	Public Hearing not otherwise specified	\$60
<input type="checkbox"/>	Boundary Line Adjustment	\$250
<input type="checkbox"/>	Cargo Containers (each)	\$60

LAND USE ACTION APPLICATION



CITY USE ONLY

Date Received 4-26-16
 By BM
 Fee 200.00 Receipt # 001951
 File # LUA 2016-0021

1. PROPERTY OWNER(S)
 NAME Gregory & Marla Huff
 MAILING ADDRESS P.O. Box 613
 CITY AND STATE MOSES LAKE, WA. ZIP 98837
 TELEPHONE (509) 750-1424
 I(We) (Signature(s)) Date: 4-26-16
Gregory Huff
Marla J. Huff

do hereby affirm and certify, under penalty of perjury, that I am one (or more) of the owners or owner under contract of the below described property and that the foregoing statements and answers are in all respects true and correct on my information and belief as to those matters, I believe it to be true.

2. APPLICANT
 COMPANY NAME _____
 CONTACT SAME
 MAILING ADDRESS _____
 CITY AND STATE _____ ZIP _____
 TELEPHONE _____
 SIGNATURE _____ DATE _____

3. Authorized Rep
 COMPANY NAME _____
 CONTACT SAME
 MAILING ADDRESS _____
 CITY AND STATE _____ ZIP _____
 TELEPHONE _____

4. SUMMARY OF REQUEST (List Type of Uses)
SEE ATTACHED LETTER

5. UTILITIES:
 1. WATER SUPPLY: (Name of Utility, if applicable)
 a. Existing _____
 b. Proposed _____
 2. SEWAGE DISPOSAL: (Name of Utility, if applicable)
 a. Existing _____
 b. Proposed _____
 ACCESS: (Name of road or street from which access is or will be granted)
 1. Existing Access: _____
 2. Proposed Access: _____

6. PROPERTY LOCATION
 NORTH SOUTH EAST WEST SIDE OF (Circle One)
 (Road Name): BLANCHET DRIVE
 between (road name): _____
 and (road name): _____
 PROPERTY ADDRESS _____
 SECTION _____ TOWNSHIP _____ RANGE _____
 ASSESSOR'S PARCEL NUMBER: _____
 FULL LEGAL DESCRIPTION OF SUBJECT PROPERTY:
 (Attach separate sheets if too long)

7. EXISTING ZONING _____
 TOTAL AREA (square feet) OF SITE _____

Anne Henning, Senior Planner—ahenning@cityofml.com
 Billie Jo Munoz, Assistant Planner—bmunoz@cityofml.com
 Daniel Leavitt, Assistant Planner—dleavitt@cityofml.com
 Revised 1-28-15

4-26-16

Dear Sirs:

We own property located at 410 White Street.

As long as we have owned this property, Blanchet Dr. (which sits between our property and the Catholic Church, and at the end of a cul-de-sac) has sat there vacant. The new elementary school Park Orchard sits adjacent.

This Blanchet Dr. property has become a dumping ground for all the neighbors unused items, grass clippings and etc.

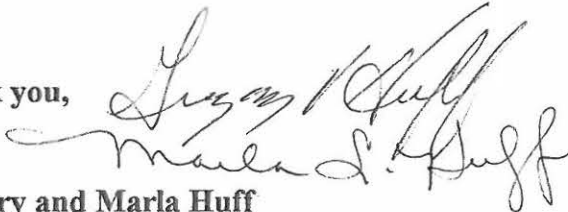
We would like Blanchet Dr. vacated and would like to purchase this unbuildable ½ lot. We would move our fence to incorporate this vacated street into our property on White Street. We would move the fence to 5 feet of the existing sidewalk used for access to the elementary school.

We have discussed this with a representative with the Catholic Church as they have the same concerns and agree with our purchasing and cleaning up this property.

We have also paid the \$200 fee to start the process for the right-of-way vacation.

Thank you,

Gregory and Marla Huff

Handwritten signatures of Gregory and Marla Huff. The signature for Gregory is written above the signature for Marla. Both signatures are in cursive and appear to be in black ink.

April 22 2016

TO: Assistant Planner, Billie Jo Munoz

FROM: Municipal Services Director **GN**

SUBJECT: **Huff - Vacation of Blanchet Adjacent to Lots 1, Block 1, HLH Plat - One-Half Appraised Valuation**

I calculated the one-half appraised value by using the assessed values, shown on the Grant County GIS website, of the lots on each side of the proposed alley vacation.

<u>Lot</u>	<u>Assessed Valuation</u>	<u>Square Feet</u>	
1 Blk 1, HLH Plat	\$ 30,000	13,799	\$2.17/sf
Lot 5, Knolls Vista 18 Add.	\$187,300	190,792	\$0.98/sf

Average assessed value is \$1.57/sf

Area of alley proposed to be vacated is = 7,865 square feet.

Total valuation = 7,865 square feet x \$1.57 per square feet = \$12,348

One-half assessed value is \$6,174



CITY OF MOSES LAKE
STAFF REPORT

To:	John Williams, City Manager
From:	Gilbert Alvarado, Community Dev Dir / Deputy City Manager
Date:	June 28, 2016
Proceeding Type:	Request for Direction
Subject:	Shoreline Master Program Update – Conditional Approval

Legislative History:

- | | |
|------------------------|----------------|
| • First Presentation: | April 12, 2016 |
| • Second presentation: | June 28, 2016 |
| • Action: | Motion |
-

Staff Report Summary

Attached is a letter from the Washington State Department of Ecology (DOE), giving the City of Moses Lake notice of their intent to conditionally adopt the Moses Lake Shoreline Master Program (SMP). See attached letter and Attachments. This letter does not mean that the SMP is adopted. It is part of the statutory process of an SMP adoption. At this point, we have simply two options to follow with our SMP final adoption and they are: 1) agree to the DOE changes as drafted or; 2) submit and alternate proposal.

Attached also is a Memo from Anne Henning, Senior Planner, which highlights the major changes by DOE to the Moses Lake SMP. See attached.

Background:

The City of Moses Lake is obligated under State statute to adopt a SMP that is compliant with amended Shoreline Management Act. The City Council has reviewed the Draft SMP and made

recommendation to DOE. The DOE did not fully accept the recommendations as presented and offered changes that they felt are compliant with the Shoreline Management Act.

Fiscal and Policy Implications

If the City Council is to consider an alternate SMP proposal as provided by the process of SMP adoption, the Council will need to consider an outside source for assistance. Staff is not in a position to address DOE's concerns given the complexity of the issues.

Historically, the City hired a consulting firm to assist with development of the Cumulative Impact Analysis (CIA) as required. It was the CIA work that help develop the wetlands buffer language that DOE has taken exception to in terms of compliance with the Shoreline Management Act.

Options

<i>Option</i>	<i>Results</i>
<ul style="list-style-type: none"><i>Accept the DOE proposed changes to the Moses Lake SMP</i>	<i>Adoption of the SMP moves forward to DOE for signature and codification.</i>
<ul style="list-style-type: none"><i>Provide DOE with alternate SMP proposal for their review</i>	<i>Continued SMP adoption and fiscal impacts to the General Fund</i>

Staff Recommendation

Staff would recommend that the City Council consider adoption of the DOE proposed changes as presented. The Council should consider the DOE proposed changes and provide staff direction on how to proceed.

Attachments

A.	Memo – Senior Planner Anne Henning
B.	Attachments A, B & C

Legal Review

The following documents are attached and subject to legal review:

Type of Document	Title of Document	Date Reviewed by Legal Counsel
N/A		

The Honorable Todd Voth
June 7, 2016
Page 2

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

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

Ecology appreciates the dedicated work that the City Council, City staff (Rob White), the Planning Commission and the community have put into the Shoreline Master Program update.

We look forward to concluding the SMP update process in the near future. If you have any questions or would like to discuss the changes identified by Ecology, please contact our Regional Planner, Jeremy Sikes, at Jeremy.Sikes@ecy.wa.gov/(509) 329-3426.

Sincerely,



Maia D. Bellon
Director

Enclosures

By Certified Mail [7012 1010 0003 3028 4406]

cc: Gil Alvarado, City of Moses Lake
Sara Hunt, Ecology
Jeremy Sikes, Ecology

To: Community Development Director
for Council Consideration

From: Senior Planner–Henning



Subject: Shoreline Master Program (SMP)
Ecology Approval/Comments

Date: June 21, 2016

The City has received the conditional approval of our SMP from Ecology. The City Council's draft of the SMP has been approved but with certain recommended and required changes. The City has 30 days to agree to the changes or propose alternate language that achieves the same end result as the changes from Ecology.

Many of the changes are simple and non-controversial; however, a few require some additional explanation. These include wetland buffers, wetland mitigation ratios, joint use docks, public access, and trail setbacks.

Wetland Buffers

Jurisdictions are required to base their minimum wetland buffers on science; if the city cannot provide more specific science then the buffers default to the State's extensive guidance on wetland buffers. The City had only a brief analysis by their consultant, who tried to make a case for generalizing existing conditions to all wetlands. This analysis is not as comprehensive as the State's work on the science of wetlands and buffers so does not constitute better information. Therefore, we must use the State's buffers for wetlands. Category III and IV were the only categories that must be changed.

Wetland Buffers

Wetland Category	Standard Buffer Width	Additional buffer width if wetland sores 5 habitat points	Additional buffer width if wetland sores 5 habitat points	Additional buffer width if wetland sores 5 habitat points
Category III	25' 60'	NA Add 15'	NA Add 45'	NA Add 75'
Category IV	25' 40'	NA	NA	NA

Wetland Mitigation Ratios

By state and federal law, when impacts to wetlands are allowed, those impacts must be mitigated. The City's proposed ratio was 1:1; however, as Ecology points out, this does not reflect the most current science, and the Cumulative Impacts Analysis prepared by the City's consultant could not find that this proposal would not lead to net loss of functions. Mitigation is not always successful, so the required mitigation must include a larger area than is being impacted. The City must propose ratios that will lead to no net loss of

ecological function. There are two methods of calculating the appropriate mitigation ratio that Ecology will accept: 1) The credit/debit method which is the most accurate but requires more information specific to the project, and 2) Standard ratios developed by the State and the Corps of Engineers as shown in the following table. Ecology is requiring that we allow both methods to provide more flexibility to the applicants.

Wetland Mitigation Ratios

Category & Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement
Category I: Bog or Natural Heritage Site	Not considered possible	Case by case	Case by case
Category I: Mature Forested	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

Joint Use Docks

The Shoreline Management Act requires property owners to share the use of docks “when feasible”. Ecology has provided language (developed for Grant County’s SMP) that will meet this requirement but in a way that shouldn’t be burdensome to property owners or the City. New subdivisions will be required to provide joint use docks rather than individual docks; however, there is not much vacant shoreline property left for development so implementation of this provision will be very limited.

Public Access

While not identified by Ecology as a major issue, staff believes the requirement for public access in new subdivisions may be an issue of concern to the City Council. WAC 173-26-241(3)(j) requires “community and/or public access”, however the language from Ecology only addresses public access. If the City would like to allow community access (limited to the residents of the development) instead of full public access, we would need to propose alternate language in 7-100-030 Regulation 2. Inserting “community or” in front of “public access” would be staff’s suggestion. Again, there are few vacant shoreline parcels that this would apply to, so implementation would be limited.

Trail Setbacks

The draft SMP proposed a 10' trail setback for all designations except Natural, where it was proposed at 25'. Ecology’s required change is to increase the trail buffer to 25' in the Shoreline Residential Resource and Special Resource designations.

RECEIVED
COMMUNITY DEVELOPMENT
JAN 18 2015

ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF MOSES LAKE
SHORELINE MASTER PROGRAM

SMP Submittal accepted December 15, 2014, Ordinance Number 2732
Prepared by Jeremy Sikes on XXXX

Brief Description of Proposed Amendment:

The City of Moses Lake (City) has submitted to Ecology for approval, a comprehensive update to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The updated master program submittal contains locally tailored shoreline management policies, regulations, environment designation maps, administrative provisions as well as local municipal code 18.53 Flood Hazard. No parts of the local ordinances are adopted by reference as part of the SMP, as the City has elected to incorporate Critical Areas language into the updated Master Program. The critical areas provisions provide a level of protection that assures no net loss of shoreline ecological function pursuant to *RCW 36.70A.480(4)*. Additional reports and supporting information and analyses noted below, are included in the submittal.

FINDINGS OF FACT

Need for amendment. The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the City's local Shoreline Master Program pursuant to RCW 90.58.080 and 100. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27. This SMP update is needed to address land use changes that have occurred along the City's shorelines since 1988 when the City reviewed the SMP, adopted in 1975. This update also provides consistency between the updated SMP Guidelines, current science regarding protection of shoreline resources, the City's Comprehensive and Flood Management Plans, and the shoreline protection provisions of neighboring jurisdictions.

SMP provisions to be changed by the amendment as proposed:

This comprehensive SMP update is intended to entirely replace the City's existing SMP which was last reviewed on 1988. This updated SMP does not increase the linear extent of shorelines to be covered and regulated by the City. The City did not elect to extend shoreline jurisdiction to include critical area buffers as allowed under RCW 90.58.020(2)(d)(ii).

Amendment History, Review Process:

The City's efforts to update the SMP originally began in 1998. The City formed a Citizen Advisory Committee of volunteers to review draft language for the Shoreline Master Program (SMP) update. The draft language was based on a model SMP developed by the Department of Ecology. The Committee met monthly starting through 2001, when it was determined that a shoreline inventory was needed before further work on the SMP update. Minutes of the Committee meetings and the draft language discussed by the Committee formed a basis for the goals, policies, and regulations that eventually lead to the locally adopted SMP.

The city revived the local planning process again in 2004 with help from a Department of Ecology grant.

Part of the grant money was used for a shoreline inventory by Geo-Ecology Research Group of Central Washington University. The inventory consisted of compiling, mapping, and analyzing information including zoning, land use, docks, bulkheads, wetlands, soil permeability, etc. The remainder of the grant money was used for Highlands Associates of Okanogan to take the shoreline inventory and analysis, state Shoreline Master Program guidelines, work by Moses Lake's Shoreline Citizen Advisory Committee, and Planning Commission input to create drafts of the regulatory chapters of the SMP update. At the end of that process, the draft SMP was not yet acceptable to either the state or the local citizens and Planning Commission, so staff continued to refine the draft SMP as workload allowed.

The City has engaged extensively with the public throughout the lengthy update process. Through more than 50 public sessions (*hearings, open houses, work sessions, open regular meetings, and comment periods*) the citizens of Moses Lake have had many opportunities to provide input on the draft SMP. In its latest iteration, the SMP was intensively reviewed by the Planning Commission through twenty-three study sessions, and two open houses, before the GMA 60-day comment period. The 60-day review garnered several substantive comments from state agencies, including Ecology.

With passage of Resolution #2732, on October 24, 2014, the City authorized staff to forward the proposed amendments, including responses to comments received, to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review and verified as complete on December 15, 2014. Notice of the state comment period was distributed to interested parties identified by the City on January 15, 2015, in compliance with the requirements of WAC 173-26-120, and as follows:

The state comment period began on February 2, 2015 and continued through March 4, 2015.

Ecology also issued a news release and internet notices to encourage public participation and comment. Ecology received five written comments, focused primarily on buffers established in the locally adopted SMP draft, and cultural resources issues. Ecology prepared a summary of public comments and sent this to the City of Moses Lake on March 23, 2015. Due to extenuating circumstances with City staff, the City requested, and was granted, two subsequent 45-day extensions to their required response timeline. Extensions were requested in writing on April 22 and June 19, 2015.

On July 29 2015, the City submitted to Ecology its responses to issues raised during the state comment period.

Ecology found that the locally adopted draft, while complete, contained some outdated references, and contained provisions that Ecology had previously indicated were not compliant with applicable laws and rules. With these required and recommended changes, Ecology proposes replacement language to ensure compliance with applicable statutes, and provides detailed rationale for each required and recommended change.

Among other smaller edits, required changes include deletion of one environment designation that would be inappropriate based on the Cumulative Impacts Analysis and underlying Grant County designation, and clarification of a provision addressing buffers established during preliminary platting to ensure consistency with state subdivision laws. Ecology also incorporated text edits the City

proposed to address comments received during the state public comment period, as presented in the responses received July 2015 (Attachment C).

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

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

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on April 28, 2014. Notice of the SEPA determination was published in the Columbia Basin Herald on May 1, 2014. Ecology did not comment on the DNS.

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

These supporting documents include:

- *Shoreline Inventory and Characterization dated June, 2005*
- *Moses Lake Cumulative Impacts Analysis (MLCIA) dated July 8, 2013*
- **Technical Memo; Recommendations to Meet No Net Loss of Ecological Function in the City’s Shoreline Master Program dated July 8, 2013*
- **Technical Memo (edited by City of Moses Lake); Recommendations to Meet No Net Loss of Ecological Function in the City’s Shoreline Master Program dated October 15, 2013*
- *Shoreline Restoration Plan (Moses Lake SMP Chapter 11)*
- *MLMC 18.53 Flood Hazard Code*
- *MLMC Chapter 18.67 Planned Development District Zone Code*
- *City of Moses Lake SMP City Council Public Hearing and Comments Responsiveness Summary (undated)*
- *Shoreline Jurisdiction Map Portfolio dated January, 2014*
- *Shoreline Master Plan Comment Submittal dated December, 2014*
- *City of Moses Lake Response Matrix for State Public Comment Period, and City proposed text edits; July 20, 2015*

* Both the original and edited versions of this document were submitted by the City of Moses Lake as a part of the formal submittal package.

Summary of Issues Raised During The Public Review Process:

Issues raised during the public comment period were substantive and wide ranging. Some of the issues raised were similar to those raised during the many City-sponsored public comment periods, while

others were raised for the first time during the state comment period. Ecology commented extensively on the GMA 60-day review draft prior to final adoption. The City elected not to address several of those comments in the locally adopted draft. Ecology included these unaddressed comments in the response matrix (Attachment C – Combined State_Local Comment Responses) developed for the state comment period for clarity.

The City of Moses Lake SMP update process was unique and lengthy. The update process began in 1998, and proceeded in bursts of activity and periods of dormancy until roughly 2013. Both the City and Ecology had staff turn-over during the nearly twelve years update process. As a result, the locally adopted draft was authored and revised by different planning staff, planning commission members, and City councils. Ecology had a more limited role in reviewing draft products than with other comprehensive updates, and provided feedback primarily during the many formal public comment periods held by the City. As noted, some of Ecology's earlier comments, including many direct requirements of either the SMA or Ecology rules, were not incorporated into the locally adopted draft.

Issues raised previously by Ecology dealt primarily with wetland buffers and mitigation ratios, joint use docks, and trail setbacks.

Wetlands buffers

Ecology found the city did not provide adequate rationale for proposed wetland buffers for Category 3 and 4 wetlands. Ecology's science-based recommended Category 3 and 4 wetlands buffers are 60 feet and 40 feet respectively, with additional buffers of 30' and 60' for wetlands with high quality habitat.¹ The City's proposed buffers are 25 feet for both categories with no additional area for higher functioning scores.

The city based its buffers in part on a Cumulative Impacts Recommendations report prepared by Watershed Co., which recommended that Category 3 wetlands should be provided a 25-foot buffer. The report held that *"...proposed buffers should either be: 1) consistent with existing conditions, or 2) consistent with recommendations of the "most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern" (WAC 173-26-201(2)(a))."* This is an incorrect interpretation of the WAC, which does not indicate that wetland buffers should be consistent with existing conditions where they would conflict with science-based recommended buffers.

While Ecology agrees an analysis of existing conditions is informative and should be considered, those conditions must be analyzed consistent with the requirement under WAC 173-26-201(2)(a). The analysis performed regarding category 3 wetland buffers presented does not meet the definition of *"most current, accurate, and complete scientific and technical information."* The analysis included only one unverified category 3 wetland, along with subjective conclusions about function based on aerial photo interpretation. In addition, the proposed buffer regulations the proposed buffers do not reflect the totality of the recommendation in the MLCIA because they do not require additional buffer width for higher habitat scores or for non SR-R designations.² Ecology's required changes include amendments to buffer provisions that align with current scientifically supported guidance.

¹ Wetlands & CAO Updates: Guidance for Small Cities, Eastern Washington Version, Pub #10-06-001; Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands, Pub 05-06-008.

² *ibid*

Wetland mitigation ratios

The proposed SMP sets wetland mitigation ratios at 1:1 for unavoidable wetland losses. A 1:1 replacement ratio for lost wetlands does not reflect the most current science on wetland mitigation and, per the Cumulative Impacts Analysis (Watershed Co., 2013), will result in net loss of ecological function. Ratios should be similar to those found in *Wetland Mitigation in Washington State* (Publication #06-06-011b) or Ecology's Small Cities Guidance (Publication #10-06-001) which was the source for many of the wetland provisions in this SMP. Wetland impacts from fill also require authorization from Ecology and possibly from the US Army Corps of Engineers. Mitigation ratios presented in the documents cited above were co-developed by Ecology and the Corps, and would be required for an applicant to obtain the needed permits. Ecology's required changes include amendments to mitigation ratios that align with current scientifically supported guidance, and the requirements in WAC 173-26-221(c)(i)(F).

Other wetland provisions

Other sections of the wetland regulations have been updated to correct references to Ecology guidance documents, wetland rating metrics, and to include optional newly developed wetland mitigation approaches.

Joint use docks

Ecology previously noted that proposed SMP drafts did not include a provision that requires joint use docks, if feasible, for new developments of 2 or more dwelling units. The City elected not to include that provision. Per RCW 173-26-231(3)(b), Ecology is providing text that requires joint use docks when feasible, using language developed during the recent Grant County SMP update that is being used for the entirety of Moses Lake outside of City limits (Attachment B). Using this previously approved language ensures consistency for all residents on the lake, and complies with the provisions under RCW 90.58.100(1)(c) and WAC 173-26-100(3) to coordinate and consult with adjacent jurisdictions.

Specific environment designation standards

The Washington Department of Fish and Wildlife commented on the inadequacy of buffers and allowed uses for several different environment designations. In some cases WDFW recommended specific alternative buffers for the SR-R and SR-S, but did not provide a rationale for increasing the proposed buffers from 50 feet to 65 feet. The Cumulative Impacts Analysis properly considered the effects of the originally proposed buffer widths for these environments. Ecology concurs with those findings, and agrees with the City's decision not to change those buffers. On the other hand, Ecology does not concur with a decision by the City to reduce trail setbacks from 25 feet in earlier drafts (and as assessed in the CIA), to 10 feet in the SR-S and SR-R environments. Ecology shares WDFW's concerns about the potential adverse impact of trails within 10 feet of the ordinary high water mark in the SR-S and SR-R environments, and includes the original 25-foot setback as recommended by WDFW and the "Recommendations to Meet No Net Loss" technical memo.

Archaeology

Both the Confederated Tribes of the Colville Reservation, and the Department of Archaeology and Historic Preservation (DAHP) submitted comments seeking changes to the Archaeological and Cultural Resources regulations of the SMP found in Section 6-20. Many of the proposed text changes were subsequently adopted by the City in their response to comments, which were included as proposed edits. Those are included in Attachment B Required and Recommended Changes as recommended changes for the City to formally accept. Other changes were not accepted, primarily

relating to timing of consultation with the DAHP and Tribes on the presence of potential cultural resources, data sharing, and other smaller details of the Archaeological and Cultural Resources regulations (see Attachment C for further details and the City's responses). DAHP provided detailed model ordinance language for consideration. While Ecology appreciates the thoughtful comments, and agrees that many of the proposed revisions would be sensible, the locally adopted draft SMP, along with the proposed additions, is compliant with WAC 173-26-221(1).

Summary of Issues Identified by Ecology as Relevant To Its Decision:

The City and Ecology found that many of the substantive comments presented improvements to the SMP, and the City drafted text edits specific to Chapters 6 and 7. Those edits are incorporated here as either required or recommended changes (Attachment B).

In addition to those topics brought to light during the state comment period (discussed in detail above and summarized in Attachment C), Ecology identified several other issues that necessitate required changes as detailed in Attachment B. Of those, two elements in the SMP require further discussion here.

Vesting

The locally-adopted SMP includes a clause that allows buffers established at preliminary plat phase of developments to apply indefinitely. Section 7-100-030(11) states:

For lots in plats with preliminary plat approval before the adoption of this Master Program, and which had wetland or shoreline buffers set during the platting process, the buffer shall be as set during the platting process.

This provision appears to conflict with Washington State's subdivision law (RCW 58.17). Local governments are charged with processing subdivision proposals and must adopt associated ordinances and procedures in conformity with state requirements. Local governments are allowed to extend the period of time for filing a final plat once a subdivision has received preliminary approval from the local government. RCW 58.17.140 allows local government to extend the time period for filing a final plat if they adopt ordinances with procedures to do so. The proposed language does neither.

RCW 58.17.170 establishes the time period after final plat approval under which the plat approval is "vested." Approved final plats can be developed according to "the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval." (RCW 58.17.170(3)(a)). The vesting period is ten years, if the date of final plat approval was prior to January 1, 2008 and the plat is not subject to the Shoreline Management Act (SMA). Plats that are subject to the SMA are vested for seven years.

Once a plat has been finalized, that plat is vested for a period of time as determined by RCW 58.17.170. There is no enabling legislation that specifically allows the local government to extend the time a final plat is vested. Ecology's understanding is that local governments are effectively preempted by state statute from extending final plat vesting timelines; that authority is reserved exclusively for the state.

After the final plat vesting period has expired, lots become "divested" - development of the plat would be subject to all applicable statutes, ordinances, and regulations that had been enacted or amended

since final plat approval. It appears the proposed SMP amendment would create an exception to this statutory scheme that exceeds the City's authority.

Ecology is including a required change that simply subjects the provision to the controlling RCW regarding vesting timelines for platting.

SR-D Environment Designation

Another important issue was the inclusion of a specific environment designation for a sensitive area of dunes (SR-D; Reach 25), but that deferred nearly all standards for development to a Planned Unit Developed code (Moses Lake Development Code 18.67.050(B)) that contains no specific limitations on how the area could be developed (SMP Chapter 9).

Without providing specific development standards for the SR-D designation, as called for in the Cumulative Impacts Analysis and Recommendations (MLCIA) to ensure no net loss of shoreline ecological function, this area inside the City UGA is more appropriately designated SR-S based on its physical ecological characteristics, underlying zoning, and the areas' current designation as Natural in the Grant County SMP.³

The MLCIA states the following:

"Given the limited standards guiding the Planned Development (PD), which is allowed in the Shoreline Residential – Dunes Area designation, it is not possible to determine whether, how, and to what extent the sensitive shoreline dunes will be protected." (MLCIA Section 5.1.2)

And

"A buffer is not specified in the Shoreline Residential - Dunes Area environment, where only planned developments are allowed. The City's Zoning Code (MLMC 18.67.050(B)) states that the planned development district shall be compatible with adjacent land uses and shall not adversely affect the character of the area in which it is located. This could be interpreted to mean that sensitive ecological functions at the site would need to be maintained, but it does not provide sufficient specificity to ensure that the development would not result in a net loss of functions." (MLCIA Section 6.1.1)

The MLCIA concludes with the following recommendation to achieve No Net Loss:

"In order to minimize adverse effects of future residential development on the unique habitat in the Shoreline Residential – Dunes Area environment designation, we recommend establishing a suite of performance standards that would accomplish the following:

1. limit the density of any new residential development (establish large minimum lot sizes and large minimum waterfront lot frontages),
2. limit site impervious surface coverage,
3. require placement of the residence in that portion of the site that has the greatest level of current alteration or has the least ecological impact,
4. prohibit clearing of all on-site native vegetation other than what may be required for construction of the residence and necessary appurtenances,
5. require native landscaping, and
6. prohibit creation of formal lawn areas." (MLCIA, Recommendations Page 10)

³ *Cumulative Impacts Analysis of City of Moses Lake's SMP and Recommendations to Meet No Net Loss*. Watershed Company, October 31 2013

The locally adopted draft did not address the recommendations provided above. Rather than attempting to craft new regulations specific to this unique environment, Ecology's Required Changes re-designate Reach 25 as Shoreline Residential - Special Resource (SR-S). As described in the Inventory and Characterization report, the area meets the SR-S designation criteria, including relatively intact condition, presence of extensive native vegetation, and overall ecological function.⁴ (Of particular note, the Inventory and Characterization Report recommends a "Natural" Environment Designation (page 129), in part because the reach provides habitat for the highest diversity of fish species (13) of any reach inventoried. The required change to SR-S reflects the conditions of the reach, while acknowledging the likelihood of planned development.

Other required changes

Other required changes are detailed in Attachment B, along with specific rationale for each. Many of the required changes are simple formatting changes that support other substantive changes, such as the addition of a wetland mitigation ratio table in Chapter 6. Other changes provide new text that was omitted from the earlier draft of the SMP, but that was required to be compliant with the SMA.

CONCLUSIONS OF LAW

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

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and also itemized in Attachment B) would be consistent with SMA policy and the guidelines and would be beneficial to SMP implementation. These changes consist primarily of language the City crafted in response to comments received after local adoption, and some clarifying language with respect to the permitting process.

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy [RCW 90.58.090(5)].

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

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

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

⁴ City of Moses Lake Shoreline Inventory and Characterization, CWU 2005; page 129.

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

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

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

Ecology concludes that the City has chosen to exercise its option pursuant to RCW 90.58.030(2)(d)(ii) not to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. As required by RCW 36.70A.480(6), effective upon approval of the SMP, Critical Areas within shorelines are regulated solely by the updated SMP.

DECISION AND EFFECTIVE DATE

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

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final. Approval of the updated SMP and proposed alternative/s is effective 14 days from Ecology's final action approving the alternative/s.

JUN 13 2016

PLANNING AND BUILDING
CITY OF MOSES LAKE

City of Moses Lake SMP Comprehensive Update

Attachment B
Required and Recommended Changes
(by chapter)

Chapter 6
General Policies and Regulations

6-20. Archaeological and Historic Resources

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

6-20-020. Policies

- ~~4. Where practical, access to identified historic or archaeological sites should be made available to the public at public expense. Such public access should be designed and managed to protect the resources.~~

Commented [SJ(1)]: Recommended changes from Moses Lake staff based on public comment

6-20-030. Regulations

2. An evaluation and a report meeting the minimal reporting standards of DAHP, prepared by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61, shall be required before the start of any ground disturbance work in any area known to contain archaeological or historic resources. The City may require such an evaluation prior to the issuance of any shoreline permit or shoreline exemption. The completed archaeological evaluation shall be submitted to DAHP and the interested Tribe for review prior to issuance of any shoreline permits.

Commented [SJ(2)]: Recommended changes from Moses Lake staff based on public comment

Commented [SJ(3)]: Recommended changes from Moses Lake staff based on public comment

6-30-070. Critical Areas: Wetlands

6-30-070-C. Regulations

4. Wetland ratings

- a. *Classification.* Wetlands in the City of Moses Lake and its UGA shall be classified into the following categories according to the *Washington State Wetlands Rating System for Eastern Washington* (Washington Department of Ecology Publication ~~#14-06-03094-06-15~~, or as amended):

Commented [SJ(4)]: Required change. Corrected reference to current wetland rating system manual.

c. Criteria for wetland analysis reports

- ii. The written report and the accompanying scaled plan sheets shall contain the following information, at a minimum:

1. Written report:

- i. Evaluation of functions of the wetland and adjacent buffer using a functions assessment method recognized by local or state agency staff and including the

reference for the method used and all data sheets. Wetlands shall be rated according to the Washington State 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 amended and approved by Ecology). The preferred methods are as follows: for Category I wetlands, use (detailed) *Methods for Assessing Wetland Functions* (Washington Department of Ecology Publication 00-06-47); for Category II, III, and IV wetlands use (generic) *Washington State Wetlands Rating System for Eastern Washington* (Washington Department of Ecology Publication 04-06-16).

d. Criteria for compensatory mitigation reports

3. The compensatory mitigation report must include a written report and scaled plan sheets containing, at a minimum, the following elements. Full guidance can be found in the *Wetland Mitigation in Washington State: Part 2 - Developing Mitigation Plans, March 2006* (Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10; Ecology Publication #06-06-011b) or as revised, br- *Selecting Wetland Mitigation Sites Using a Watershed Approach* (Eastern Washington) (Publication #10-06-07, November 2010).

e. Compensatory mitigation standards

- v. The size of a compensatory mitigation project shall be greater than the size of the affected wetland per Table 6.1.

- a. When impacts to wetlands and wetland critical area buffers are proposed they must be mitigated using a 1:1 ratio based on area of wetland buffer impacted.
- b. To more fully protect functions and values, and as an alternative to the mitigation ratios in Table 6.1, the SMP Administrator may allow mitigation based on the "credit/debit" method developed by the Department of Ecology in "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Eastern Washington: Final Report" (Ecology Publication #11-06-015, August 2012, or as amended).

Table 6.1: Wetland Mitigation Ratios

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement
Category I: Bog, Natural Heritage site	Not considered possible	Case by case	Case by case
Category I: Mature Forested	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1

Commented [SJ(5): Required change to correct reference to current wetland rating system, and remove reference to the outdated detailed functional assessment method no longer in use.

Commented [SJ(6): Required change to include recent alternative methods for developing wetland mitigation plans that were not available at the time this section was initially drafted.

Commented [SJ(7): Required change per WAC 173-26-221(c)(i), or 173-26-201(2)(a)(i)(E) and (F), and previous Ecology comments.

While the provisions generally are well written and thorough, this compensatory mitigation standard does not reflect the most current science on wetland mitigation and, per the Cumulative Impacts Analysis (Watershed Co., 2013), will result in net loss of ecological function. Ratios should be similar to those found in Wetlands in Washington State Volume 2 (Publication #06-06-011b) or Ecology's Small Cities Guidance (Publication #10-06-001) which was the source for many of the wetland provisions in this SMP. Wetland impacts from fill also require authorization from Ecology and possibly from the US Army Corps of Engineers. Mitigation ratios presented in the documents cited above were co-developed by Ecology and the Corps, and would be required for an applicant to obtain the needed permits. Revising the SMP to align with federal and state requirements will ensure that applicants have a predictable process to follow when they wish to do a project that will impact wetlands.

Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

From "Wetlands and CAO Updates- Guidance for Small Cities Eastern Washington Version" October 2012
Revision: Ecology publication # 10-06-001.

h. Wetland buffers

- i. Buffer widths: wetland buffers must be maintained in accordance with the following tables:

Table 6.24: Wetland Buffer Widths

Wetland Category	Standard Buffer Width	Additional buffer width if wetland scores 21-265 habitat points	Additional buffer width if wetland scores 26-296-7 habitat points	Additional buffer width if wetland scores 30-368-9 habitat points
Category I or II: Based on total score	75'	Add 15'	Add 45'	Add 75'
Category I or II: Forested	75'	Add 15'	Add 45'	Add 75'
Category I: Natural Heritage Wetlands	190'	NA	NA	NA
Category I or II: Alkali or Vernal Pool	150'	NA	NA	NA
Category III (all)	25'-60'	Add 15' NA	Add 45' NA	Add 75' NA
Category IV (all)	25'-40'	NA	NA	NA

Table 6.32: Required Measures to Minimize Impacts to Wetlands

Commented [SJ(8)]: Required change to table number to accommodate new wetland mitigation table above.

Commented [SJ(9)]: Required changes to score ranges based on updates to Eastern Washington Wetland Rating system.

Commented [SJ(10)]: Required change per WAC 173-26-201 (2)(a), and 173-26-221(2)(c), based on flawed CIA wetland analysis and unsupported reduction of standard buffers.

Buffers for Category 3 and 4 wetlands have been reduced arbitrarily from 60' (with additional buffers of 30' and 60') and 40'; to 25' for both categories with no additional area for higher functioning scores. While we recognize that the Cumulative Impacts Recommendations report prepared by Watershed Co made recommendation that Category 3 wetlands should be provided a 25' buffer, we do not agree with the underlying analysis, and the proposed buffers do not reflect the totality of the recommendation.

Watershed Co, makes the statement that "...proposed buffers should either be: 1) consistent with existing conditions, or 2) consistent with recommendations of the "most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern" (WAC 173-26-201(2)(a)). This is an incorrect interpretation of the WAC. The analysis of existing conditions is informative and should be considered, but it cannot substitute for the requirement under WAC 173-26-201(2)(a). The analysis performed regarding category 3 wetland buffers presented does not meet the definition under 201(2)(a), having only one, unverified category 3 wetland, along with subjective conclusions about function based on aerial photo interpretation as its' basis. In addition, the proposed wetland buffers do not reflect even that flawed recommendation by allowing the smaller buffer without the required additional buffer width for higher habitat scores or for non SR-R designations. Category 4 wetland buffers should align with the science-based buffer of 40 feet (Small Cities Guidance Publication #10-06-001).

Commented [SJ(11)]: Required change to table number to accommodate new wetland mitigation table above.

Chapter 7

Specific Shoreline Use Policies and Regulations

7-30. Boating Facilities

7-30-020. Policies

1. Boating facilities 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. When plastics and other non-biodegradable materials are used, precautions should be taken to ensure their containment.

Commented [SJ(12): Delete "maximum feasible" from text. Recommended changes from Moses Lake staff based on public comment

7-30-030. Regulations

2. ~~Boating facilities shall be designed in accordance to technical standards found in WAC 220-660-150 Boat ramps and launches in freshwater areas, and -160 Marinas and terminals in freshwater areas (or as amended) as applicable.~~
6. A marina shall be allowed only as a conditional use. The City shall request technical assistance from agencies with jurisdiction and/or knowledge, including but not limited to the Washington departments of Ecology, of Fish and Wildlife, of Natural Resources, and of Health, and shall make available to those agencies the *Shoreline Inventory and Characterization* and maps developed as part of this SMP. The Planning Commission shall consider the comments received from commenting agencies before making a decision on whether or not to approve the permit, and any conditions or modifications required.

Commented [SJ(13): Required change to address DNR Comment regarding dimensional standards for marina construction. While 220-660-160 does not provide dimensional standards per se, referencing it here does ensure that marina and boat ramp designs are compliant with other permit requirements

Commented [SJ(14): Recommended changes from Moses Lake staff based on public comment

7-50-030. Regulations

7-50-030-C. Joint-use community recreational docks

1. All multi-family residences proposing to provide moorage facilities shall be limited to a single, joint-use moorage facility, provided that the City may authorize more than one joint-use dock if, based on conditions specific to the site, a single facility would be inappropriate for reasons of safety, security, or impact to the shoreline environment.
2. ~~If moorage is to be provided or planned as part of a new residential development of two or more waterfront dwelling units or lots, or as part of a subdivision or other divisions of land occurring after the effective date of this SMP, joint use or community dock facilities shall be required when feasible, rather than allow individual docks for each residence. A joint use dock shall not be required for:~~
 - a. Development of a single residence.
 - b. Existing single residential units that currently do not have a dock.
 - c. Replacement of existing single residential docks.
3. ~~In order to evaluate the feasibility of a joint community dock in a new residential development of two or more waterfront dwelling units, the applicant/proponent shall demonstrate the following:~~
 - a. Existing facilities in the vicinity, including marinas and shared moorage, are not adequate or feasible for use; and
 - b. The applicant/proponent has contacted abutting property owners and none have indicated a willingness to share an existing dock or develop a shared moorage in conjunction with the applicant/proponent.

Commented [SJ(15): Required change. Per RCW 173-26-231(3)(b) SMPs should "contain a provision that, 'requires new residential development of two or more dwelling units to provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence'."

Note that when used in the context of an SMP update, "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action (WAC 173-26-020(35)).

Per WAC 173-29-321(3)(b), the city has not provided "a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action."

The recently adopted Grant County SMP provides clear language and feasibility review standards to this effect, which were developed specifically for Moses Lake, and are provided here as a required change

7-100-030. Regulations

2. ~~New multi-unit residential development (including multiplexes), and the subdivision of land into four or more lots shall make adequate provisions for public access consistent with the regulations set forth in Section 7-90. Recreational Uses, and all provisions of this SMP.~~

Commented [SJ(16): Required change, adding 2 new sections and changing outline numbering accordingly. WAC 173-26-221(4)(d)(iii) requires that SMPs provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and non water-dependent uses and for the subdivision of land into more than four parcels. Specific to residential development, WAC 173-26-241 (3)(j) states that "new multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter."

3. Public access shall be located and designed to respect private property rights, be compatible with the shoreline environment, protect ecological functions and processes, protect aesthetic values of shoreline, and provide for public safety (including consistency with Crime Prevention through Environmental Design (CPTED) principles, where applicable).

810. Environment-specific regulations:

- a. Residential uses shall comply with the environment-specific requirements in Chapter 9, except as provided in Regulation 9-10 below.

911. Common Line Setbacks: The residential buffers in Table 9.3 shall not apply in cases where the majority of existing development in the area does not meet the established buffer standards. In such cases residential structures shall be set back common to the average of setbacks for existing dwelling units within three hundred (300) feet of side-property lines a proposed residential structure. If there is only one or no dwelling units within three hundred (300) feet of a proposed residential structure side-property lines, the shoreline buffers of Table 9.3 shall apply. Common line setback allowed in this section is subject to approval by the Shoreline Administrator. Common line setback shall only be allowed where no loss of shoreline ecological functions or interference with shoreline processes will result from said common line setback per the mitigation requirements in this SMP. The Administrator may place conditions on the approval. Any further deviation from setback requirements beyond that allowed in this section shall require approval of a shoreline variance permit.

4012. For lots platted before the adoption of this Master Program, if the required shoreline buffer causes there to be less than 60' from the buffer to the front zoning setback line, the front yard zoning setback may be reduced to 10' for a porch, 15' for living space or the side of a garage, and 20' for a garage door. Side yard setbacks may be reduced to 5'. If there is still not 60' from the reduced zoning setback to the shoreline buffer, the shoreline buffer may also be reduced by the minimum amount that will allow 60' of buildable area, provided there will be no net loss of shoreline ecological function per Section 6-30 Critical Areas, and Appendix A Mitigation of this SMP and provided that at least a 25' shoreline buffer will be maintained. These reductions in buffer and setbacks do not authorize encroachments into any easements which may be on the property. All proposals to reduce setbacks and buffers shall be submitted to the Administrator for review. The Administrator may place conditions on the approval.

44.13 Subject to RCW 58.17.140 and RCW 58.17.170. For lots in plats with preliminary plat approval before the adoption of this Master Program, and which had wetland or shoreline buffers set during the platting process, the buffer shall be as set during the platting process.

4214. Residential Fencing: Fencing meeting Municipal Code standards may extend to the landward edge of the shoreline buffer. Fencing may be installed within the buffer if all of the following are met:

Commented [SJ(17): Changes to internal numbering structure accommodate new subsections 7-100-030 2. and 3. above.

Commented [SJ(18): Changes to internal numbering structure accommodate new subsections 7-100-030 2. and 3. above.

Commented [SJ(19): Changes to internal numbering structure accommodate new subsections 7-100-030 2. and 3. above.

Commented [SJ(20): Common line setbacks are a useful tool for the purpose of allowing shoreline views to be adequate and comparable to adjacent residences. Ecology has previously only approved common line setback language for 150' on each side of a structure for the purpose of providing for comparable views. The distance measured should be the minimum needed to encompass a similar view corridor on either side of a residence, and with the application of mitigation requirements. No change to the 300-foot allowance is required.

Commented [SJ(21): Changes to internal numbering structure accommodate new subsections 7-100-030 2. and 3. above.

Commented [SJ(22): Required change. Limited administrative buffer reductions that allow reasonable development on previously platted lots, are a sensible approach to avoiding the need for complex variances. As written, the provision does not specify how no net loss is to be achieved or evaluated. This required change refers the applicant to standards in the Critical Areas and Mitigation provisions of the regulations.

Commented [SJ(23): Required change. Add reference to statutory time frames for vesting of subdivisions to section 7-100-030 (11) for compliance with RCW 58.17.140 and 170. See Attachment A Findings and Conclusions for further discussion.

Commented [SJ(24): Changes to internal numbering structure accommodate new subsections 7-100-030 2 and 3. above.

Chapter 8 Shoreline Modification Policies and Regulations

8-30-040. Bulkheads and Riprap

8-30-070. Regulations

~~3. A bulkhead type structure used to stabilize a dock may be permitted, but the size shall be limited to the minimum necessary for the dock. The stabilization structure shall not exceed 2' wider than the dock on each side nor shall it exceed 14' in total width along the shoreline.~~

Commented [SJ(25): Recommended change Deleted per city response to comments provided earlier in the adoption process, but that did not occur prior to the local adoption action.

Chapter 9

Shoreline Environment Designations

City of Moses Lake Shoreline Environment Designations

This master program establishes nine shoreline environments for the City of Moses Lake and its UGA:

H = High Intensity

H-R = High Intensity—Resource Area

SR = Shoreline Residential

SR-R = Shoreline Residential—Resource Area

SR-S = Shoreline Residential—Special Resource Area

~~SR-D = Shoreline Residential—Dunes Area~~

W = Water-Oriented Parks and Public Facilities

N = Natural

A = Aquatic

The table below describes the designation criteria for each of the nine shoreline environments. Policies for each shoreline environment follow.

**TABLE 9.1
SHORELINE ENVIRONMENT CLASSIFICATION CRITERIA**

Environment designation	Classification criteria	Comments
Shoreline Residential—Dunes	The area to be designated "Shoreline Residential—Dunes" has been found to be relatively intact as regards ecological function. It is part of a dunes ecosystem that performs important ecological functions. It is also planned for shoreline residential use. The area has high potential for planned development that combines limited residential use with ecological protection and restoration.	

Commented [SJ(26): Required change to re-designate SR-D to SR-S environment designation. Without providing specific development standards for the SR-D designation, as called for in the Cumulative Impacts Analysis (page 10) to ensure no net loss, this area in the city UGA is more appropriately designated SR-S based on its physical ecological characteristics, underlying zoning, and the areas' current designation as Natural in the Grant County SMP. See complete discussion and rationale in Attachment A Findings and Conclusions.

Commented [SJ(27): Required change to re-designate SR-D to SR-S environment designation. See complete discussion and rationale in Attachment A Findings and Conclusions.

Reaches Designated "SR-S"

Reach	Rationale	Zoning	Comp Plan Designation
25	Undeveloped dunes; emergent vegetation; wetlands; riparian tree cover	UR-3	LDR

Commented [SJ(28)]: Required change to re-designate Reach 25 from SR-D to SR-S environment designation. See complete discussion and rationale in Attachment A Findings and Conclusions.

Shoreline Residential—Dunes Area (SR-D) Environment

Policies

1. All of the policies listed above for Shoreline Residential shoreline environments also apply in Shoreline Residential—Dunes environments.
2. A Planned Development Permit should be required for any use or activity in the Shoreline Residential—Dunes environment, with the exception of transportation facilities, which should be allowed with a Conditional Use Permit.
3. The following uses should not be allowed in Shoreline Residential—Dunes environments: commercial activities, industrial activities, mining, agriculture, municipal uses, golf courses, non-water oriented recreation, and roads and parking areas that can be located elsewhere.
4. As noted in the general regulations in Chapter 6, maintenance of ecological functions should be required for uses and activities in the Shoreline Residential—Dunes environment.

Reaches Designated "SR-D"

The reaches designated "SR-D" are undeveloped tracts in a dunes ecosystem. They are relatively intact as regards ecological function, and are planned for low density residential use. Both reaches are located in the City's UGA; they are zoned for Urban Residential 3 (UR-3) use; and designated for Low Density Residential (LDR) use in the *Comprehensive Plan*.

Reach	Rationale	Zoning	Comp Plan Designation
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**TABLE 9.2
SHORELINE ENVIRONMENT USE & ACTIVITY CHART**

All uses and activities, including those classified as "Allowed" ("P") in the table below and including those considered exempt, must comply with all provisions of this Shoreline Master Program (SMP), including the General Regulations in Chapter 7. Uses and activities not listed in the Shoreline Environment Use and Activity Chart may be allowed, subject to approval by the Shoreline Administrator, if they comply with the standards in this section and with any special regulations that apply to similar uses.

Legend

H= High Intensity

H-R = High Intensity—Resource Area

SR = Shoreline Residential

~~SR-D = Shoreline Residential—Dunes Area~~

SR-R = Shoreline Residential—Resource Area

SR-S = Shoreline Residential—Special Resource Area

W = Water-Oriented Parks and Public Facilities

N = Natural

A = Aquatic

P = Allowed use; Substantial Development Permit required unless use is exempt

CUP = Shoreline Conditional Use Permit required

X = Prohibited use

~~PD = Planned Development Permit required~~

S = Same as in adjacent environment shoreward of the OHWM

N/A= Not Applicable

Commented [SJ(29)]: Required change to re-designate SR-D to SR-S environment designation. See complete discussion and rationale in Attachment A Findings and Conclusions.

Commented [SJ(30)]: Required change to re-designate SR-D to SR-S environment designation. See complete discussion and rationale in Attachment A Findings and Conclusions.

Commented [SJ(31)]: Required change to re-designate SR-D to SR-S environment designation. See complete discussion and rationale in Attachment A Findings and Conclusions.

	H	H-R	SR	SR-R	SR-S	SR-D	W	N	A
Agriculture (subject to regulations in Chapter 7)	X	X	X	X	X	X	X	X	NA
Aquaculture (subject to regulations in Chapter 7)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	CUP
Boating facilities (subject to regulations in Chapter 7)									
rail-type boat launch systems	CUP	CUP	CUP	CUP	X	X	X	X	S
Boat houses [<i>prohibited by WAC 173-26-211(5)(c)(ii)A</i>]	X	X	X	X	X	X	X	X	X
Boat launch ramps, community and public	CUP	CUP	CUP	CUP	X	X	CUP	X	S
Boat launch ramps, private	X	X	X	X	X	X	X	X	S
Boat lifts, private	CUP	CUP	P	P	P	PD	CUP	X	S
Marinas	CUP	CUP	CUP	CUP	X	X	CUP	X	S
Floating homes, houseboats, and liveaboards	X	X	X	X	X	X	X	X	X
Commercial uses (subject to regulations in Chapter 7)									
Water dependent	P	CUP	P	CUP	X	X	X	X	S
Water related & water-enjoyment	CUP	CUP	CUP	CUP	X	X	X	X	X
Other (not water-oriented)	CUP	CUP	CUP	X	X	X	X	X	X
Docks ¹									

¹ Docks will only be allowed in accordance with all applicable provisions of this SMP, including critical areas provisions and the specific use regulations that apply to docks.

	H	H-R	SR	SR-R	SR-S	SR-D	W	N	A
Joint-use community recreational docks	P	P	P	P	P	PD	P	X	S
Private residential docks	X	X	P	P	P	PD	X	X	S
Commercial docks	P	CUP	CUP	CUP	X	X	X	X	S
Industrial uses	X	X	X	X	X	X	X	X	X
Mining (subject to regulations in Chapter 7)	CUP	X	X	X	X	X	X	X	X
Parking—primary (subject to regulations in Chapter 6)	X	X	X	X	X	X	X	X	X
Parking—serving a permitted use other than a single-family residential use (subject to regulations in Chapter 6)	P	P	P	P	CUP	PD	P	X	X
Parking—serving a single-family residential use (subject to regulations in Chapter 6)	P	P	P	P	P	PD	P	X	X
Public access (subject to regulations in Chapter 6)	P	P	P	P	CUP	PD	P	CUP	S
Recreation (subject to regulations in Chapter 7)									
Water dependent	P	P	P	P	CUP	PD	P	CUP	CUP
Water related	P	CUP	P	CUP	CUP	PD	P	CUP	CUP
Water enjoyment	P	CUP	P	CUP	CUP	PD	P	CUP	CUP
Golf courses	X	X	X	X	X	X	X	X	X
Other (not water-oriented)	P	CUP	CUP	CUP	X	X	X	X	X
Residential uses (subject to regulations in Chapter 7)	P	P	P	P	P	PD	X	X	X
Residential subdivision (subject to regulations in Chapter 6)	P	CUP	P	P	P	PD	X	X	X
Retaining walls for purposes other than shoreline stabilization (subject to regulations in Chapter 6)	X	X	P	P	P	X	X	X	X
Shoreline modifications (subject to regulations in Chapter 8)									
Dredging	CUP	X	CUP	X	X	X	CUP	X	CUP
Dredge material disposal	CUP	CUP	CUP	CUP	CUP	X	CUP	CUP	CUP
Filling	P	CUP	P	CUP	CUP	X	CUP	CUP	CUP
Shoreline stabilization									
Structural stabilization, other than bulkheads ²	P	CUP	P	CUP	CUP	PD	P	X	X
Bulkheads ³	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP

Commented [SJ(31)]: Required change to re-designate SR-D to SR-S environment designation. See complete discussion and rationale in Attachment A Findings and Conclusions.

² Structural shoreline stabilization will only be allowed in accordance with all applicable provisions of this SMP, including, in the case on non-water-dependent uses, the requirement to demonstrate through a geotechnical report the need to protect the use.

³ Bulkheads may be allowed with a Shoreline Conditional Use Permit where the need has been documented by a geotechnical analysis. See Bulkhead regulations in Chapter 8. While existing single-family residences are exempt from the requirement to obtain a Shoreline Substantial Development Permit in order to construct a normal protective bulkhead, they must comply with all provisions of this SMP.

	H	H-R	SR	SR-R	SR-S	SR-D	W	N	A
Vegetative stabilization	P	CUP	P	P	CUP	PD	P	CUP ⁴	CUP
Flood protection facilities	X	X	X	X	X	X	X	X	X
Signs (subject to regulations in Chapter 6)									
Highway and public information	P	P	P	P	P	P	P	P	P
Off-premises outdoor advertising, and temporary	X	X	X	X	X	X	X	X	X
On premises	P	P	P	P	CUP	PD	P	X	X
Solid waste disposal	X	X	X	X	X	X	X	X	X
Stormwater management facilities (primary) ⁵	CUP	CUP	CUP	CUP	CUP	X	CUP	X	X
Transportation facilities (subject to regulations in Chapter 7)	P	CUP	P	CUP	CUP	CUP	CUP	CUP	CUP
Utilities (primary; not associated with a use allowed under the provisions of this SMP) (subject to regulations in Chapter 7)									
Water-oriented	P	CUP	CUP	CUP	X	X	CUP	X	CUP
Non-water-oriented	CUP	X	CUP	X	X	X	CUP	X	CUP

Commented [SJ(31)]: Required change to re-designate SR-D to SR-S environment designation. See complete discussion and rationale in Attachment A Findings and Conclusions.

⁴ On sites previously disturbed, when accompanied by a habitat restoration and mitigation management plan.

⁵ See "Environmental Impacts and Water Quality" in Chapter 6 for policies and regulations related to stormwater management.

TABLE 9.3
SHORELINE ENVIRONMENT REQUIREMENTS: DEVELOPMENT STANDARDS AND
SPECIFIC SHORELINE DEVELOPMENT REGULATIONS

All uses and activities, including those considered exempt, must comply with all provisions of this Shoreline Master Program (SMP), including the General Regulations in Chapter 7. Uses and activities not listed in the Shoreline Environment Requirements Chart may be allowed, subject to approval by the Shoreline Administrator, if they comply with the standards in this section and with any special regulations that apply to similar uses.

Shoreline buffers are in feet, from the Ordinary High Water Mark (OHWM). All uses with 0' buffer must comply with all provisions of this Shoreline Master Program, including any development standards specific to the use. Other regulations, such as wetland buffers, may require a larger buffer than is noted in this table.

Where height limits are different from those specified in the Moses Lake Municipal Code, the more stringent requirement (i.e., the lower height limit) shall apply. Height is measured from the average finished grade around the structure to the highest point of the structure.

Legend

H= High Intensity

H-R = High Intensity—Resource Area

SR = Shoreline Residential

~~SR-D = Shoreline Residential—Dunes Area~~

SR-R = Shoreline Residential—Resource Area

SR-S = Shoreline Residential—Special Resource Area

W = Water-Oriented Parks and Public Facilities

N = Natural

A = Aquatic

PD = Planned Development Permit required

N/A = Not Applicable

	H	H-R	SR	SR-R	SR-S	SR-D	W	N	A
Agriculture ⁶	NA	NA	NA	NA	NA	NA	NA	NA	NA
Aquaculture									
Water-dependent structure and facility buffer	0'	0'	0'	0'	0'	NA	NA	NA	0'
Water-related structure and facility buffer	25'	50'	25'	50'	150'	NA	NA	NA	NA
Height limit	35'	25'	35'	25'	15'	NA	NA	NA	10'
Boating facilities (boat lifts, boat launch ramps, and marinas [whether commercial, private, or municipal])									
Water-dependent buffer	0'	0'	0'	0'	0'	0'	0'	NA	0'
Height limits									
Over-water structures	NA	NA	NA	NA	NA	NA	NA	NA	15'
0-100 feet from OHWM	35'	25'	25'	25'	NA	15'	15'	NA	NA
>100 feet from OHWM	35'	35'	35'	35'	NA	35'	35'	NA	NA
Commercial development—water dependent									
Water-dependent buffer	0'	0'	0'	0'	NA	NA	NA	NA	NA
Water-related and water-enjoyment buffer	50'	50'	50'	50'	NA	NA	NA	NA	NA
Non-water-oriented buffer	50'	150'	75'	150'	NA	NA	NA	NA	NA
Building height limit	35'	35'	35'	35'	NA	NA	NA	NA	NA
Docks: Dimensional standards are found in the Docks section of Ch. 7									
Industrial development (prohibited in shoreline jurisdiction)	NA	NA	NA	NA	NA	NA	NA	NA	NA
Mining and related facilities buffer	100'	NA	NA	NA	NA	NA	NA	NA	NA
Parking—primary (prohibited in shoreline jurisdiction)	NA	NA	NA	NA	NA	NA	NA	NA	NA

Commented [SJ/32]: Required change to re-designate SR-D to SR-S environment designation. See complete discussion and rationale in Attachment A Findings and Conclusions.

⁶ New agricultural uses are prohibited in areas of shoreline jurisdiction.

	H	H-R	SR	SR-R	SR-S	SR-D	W	N	A
Parking—serving a permitted use ⁷	50'	75'	75'	100'	125'	150'	150'	150'	NA
Recreation									
Buffers									
Non-water-oriented uses	100'	150'	100'	150'	NA	NA	150'	NA	NA
Water-oriented uses	35'	35'	35'	35'	NA	NA	35'	NA	NA
Water-dependent uses	0'	0'	0'	0'	0'	0'	0'	0'	0'
play fields, and other intensive use areas	100'	150'	100'	150'	NA	NA	100'	NA	NA
Recreational paths and trails (non-motorized)	10'	10'	10'	40-25'	45-25'	25'	10'	25'	NA
Height limit	35'	15'	25'	15'	15'	45'	15'	NA	15'
Maximum site coverage (percent) ⁸	40	20	40	20	10	40	20	10	NA
Residential uses ⁹									
Buffer—all dwelling units, and non-water-dependent accessory structures	25'	25'	25'	25' 50' or 100' ¹⁰	150'	PD	NA	NA	NA
Height limit	35'	35'	35'	35'	25'	25'	NA	NA	NA
Maximum site coverage (percent) ¹¹	60	50	50	50	25	25	NA	NA	NA
Maximum density (dwelling units per acre)	15	10	10	6	4	4	NA	NA	NA
Retaining walls for purposes other than shoreline stabilization—setback (subject to regulations in Chapter 6)	NA	NA	20'	30'	100'	NA	NA	NA	NA
Signs (on premises)									
Maximum height (in feet)	12	6	12	6	6	6	6	6	NA
Maximum surface area (in square feet)	36	36	36	36	36	36	36	36	NA
Setback	20'	50	25	50	150	150	20'	NA	NA
Solid waste disposal ¹²	NA	NA	NA	NA	NA	NA	NA	NA	NA
Transportation facility setbacks									
Arterials, highways, and railroads (excluding water crossings)	100'	125'	100'	125'	150'	150'	150'	150'	NA
Non-arterial, secondary, and access roads	50'	75'	75'	100'	100'	100'	100'	100'	NA
Utilities (primary; not associated with a use allowed under the provisions of this SMP)									
Setbacks for buildings, storage tanks, accessory uses, and distribution lines (excluding water	50'	100'	50'	100'	NA	NA	100'	NA	NA

Commented [SJ(32): Required change to re-designate SR-D to SR-S environment designation. See complete discussion and rationale in Attachment A Findings and Conclusions

Commented [SJ(33): Required change per WAC 173-221-221(2)(a) and (c), and -221(5), comments from WDFW and previously from Ecology

The city provided no rationale for the proposed trail buffer in either the SR-R or the SR-S environments, having reduced the buffer from 50' in previous iterations of the SMP arbitrarily to 10' in the SR-R and SR-S environments. Both of these environments are characterized by areas of special or intact ecological function, and are likely to have wetland buffer overlays. With the exception of trails specific to access a dock, there is no compelling reason trails should be located within the shoreline buffer. Trails that parallel the shoreline, depending on the type and construction methods can be highly destructive to habitat, can create vectors for invasive plants, and can fragment migration corridors. WDFW recommends 25' in its comments and we concur here.

⁷ Parking facilities shall be set back landward of the principal building being served a minimum of twenty-five feet or the required building setback, whichever is greater (see Chapter 6, General Policies and Regulations)

⁸ Includes all impervious surfaces

⁹ Common line setback may be allowed where the majority of existing development in an area does not meet the established setback standards, as provided in the Residential Use regulations in Chapter 7. Other provisions may also apply; see Chapter 7.

¹⁰ See Environment Designation map for buffer width at the specific location.

¹¹ Includes all impervious surfaces

¹² Solid waste disposal is prohibited in areas of shoreline jurisdiction

	H	H-R	SR	SR-R	SR-S	SR-D	W	N	A
crossings)									
Height limits									
Buildings, storage tanks, and accessory uses	35'	25'	35'	15'	NA	NA	15'	NA	NA
Distribution poles	35'	35'	35'	35'	NA	NA	35'	NA	NA

Commented [SJ(32)]: Required change to re-designate SR-D to SR-S environment designation. See complete discussion and rationale in Attachment A Findings and Conclusions.

Chapter 12 Administration and Compliance

12-20 PERMITS

12-20-060 Variances

F. Variances from the use regulations of the master program are prohibited.

Commented [SJ(34)]: Required change to comply with WAC 173-27-170(5)

12-60 NON-CONFORMING DEVELOPMENT

12-60-050 Duration of Permits. The duration of permits shall be consistent with WAC 173-27-090.

12-60-060 Initiation of Development

- A. Each permit for a Substantial Development, Shoreline Conditional Use or Shoreline Variance, issued by local government shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until twenty-one (21) days from the date of receipt with Ecology as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within twenty-one (21) from the date of receipt of the decision, except as provided in RCW 90.58.140(5)(a) and (b). The date of receipt for a Substantial Development Permit means that date the applicant receives written notice from Ecology that it has received the decision. With regard to a permit for a Shoreline Variance or a Shoreline Conditional Use, date of receipt means the date a responsible local government or applicant receives the written decision of Ecology.
- B. Permits for Substantial Development, Shoreline Conditional use, or Shoreline Variance may be in any form prescribed and used by the City including a combined permit application form. Such forms will be supplied by the City.
- C. A permit data sheet shall be submitted to Ecology with each shoreline permit. The permit data sheet form shall be consistent with WAC 173-27-990.

12-60-070 Review Process

- A. After the City's approval of a Shoreline Conditional Use or Variance Permit, the City shall submit the permit to the Department of Ecology for approval, approval with conditions, or denial. Ecology shall render and transmit to the City and the applicant its final decision approving, approving with conditions, or disapproving the permit within thirty days of the date of submittal by the City pursuant to WAC 173-27-110.
- B. The Department of Ecology shall review the complete file submitted by the City on Shoreline Conditional Use or Variance Permits and any other information submitted or available that is relevant

to the application. Ecology shall base its determination to approve, approve with conditions or deny a conditional use permit or variance on consistency with the policy and provisions of the SMA and except as provided in WAC 173-27-210, the criteria in WAC 173-27-160 and 173-27-170.

- C. The City shall provide timely notification of the Department of Ecology's final decision to those interested persons having requested notification from local government pursuant to WAC 173-27-130.

Chapter 13 Definitions

Commented [SJ(35)]: Recommended Change All shoreline permits are subject to the requirements in WAC 173-27. To assist staff and applicants, we add new administrative sections regarding permit duration, timing and Ecology review requirements for CUPs and Variances.

~~Development—A land use consisting of construction or exterior alteration of structures; grading, dredging, drilling, or dumping; filling; removal of sand, gravel, or minerals; bulkheading; driving of pilings; placing of obstructions; or any project of a temporary or permanent nature which modifies structures interferes with the normal public use of the surface of the waters overlying lands subject to this SMP at any state of water level. Land, or shorelines and which does not fall within allowable exemptions.~~

Commented [SJ(36)]: Required change to make consistent with the definitions under RCW 90.58.030 (3)(a), and WAC 173-26-020, and 173-27-030(6). The definition of "Development" was improperly altered to exclude several important activities including the exterior alteration of structures, placing of obstructions, and uses that interfere with the normal public use of the water. WAC 173-26-020 clearly states that the definitions found in RCW 90.58.030 must be applied in SMP. "Development" as defined in the RCW is also repeated in WAC 173-27-030(6).

~~Floodway—the area, as identified in a master program, that either:~~

~~(a) Has been established in federal emergency management agency flood insurance rate maps or floodway maps; or~~

~~(b) Consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually. Regardless of the method used to identify the floodway, the floodway shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.~~

~~The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot (1') (MLMG 48.53.030.J). Upper Parker Horn, above the Fill, is an example.~~

Commented [SJ(37)]: Required change to make consistent with the definitions under RCW 90.58.030 (2)(b), and WAC 173-26-020 (18). The proposed definition is not consistent with the specific definition required under the WAC and RCWs. The term "Floodway" has a particular technical meaning in the context of the Shoreline Master Program; either it is established by FEMA on FIRM or floodway maps using specific procedures, or it is an area identified in the field using the parameters established under RCW 90.58.030.

RECEIVED
COMMUNITY DEVELOPMENT

JUN 13 2016

PLANNING AND BUILDING
CITY OF MOSES LAKE

Attachment C - City of Moses Lake Comprehensive SMP Update – Comments received during State public comment period				
Comment Topic	Name of Commenter	Specific Comment	Local Government Response and Rationale	Ecology Response
Docks	Rick Trenbeath, Local resident, Lakeshore Dr.	"In section 6-70-01 it states that public access includes docks that touch the water. If this is true for resident docks then who is liable if they get hurt?"	Public access does not include access to private docks.	Ecology staff spoke with this commenter and provided similar feedback.
Noise	Rick Trenbeath	"Section 6.2 Talks about noise caused by industrial manufacturing but what about the boats on the lake that play very very loud music?"	Music played by boats is not "development" that is regulated by the SMP. See Moses Lake Municipal Code 8.28, Noise Control, for existing noise regulations.	Ecology staff spoke with this commenter and provided similar feedback.
Non Conforming Uses	Rick Trenbeath	"Can you tell me were in the proposal you read the Grandfather info." (Upon further conversation with Mr. Trenbeath, he is referring to the status of non-conforming uses and structures).	Non-conforming use provisions are in Chapter 12, Section 12-60.	Concur
Allowed Uses - Natural	Eric Pentico – Washington Department of Fish & Wildlife	WDFW recommends water- dependent (recreation) and transportation facility uses not be allowed in areas designated as Natural within the City of Moses Lake. "Natural environments in the City of Moses Lake contain the most intact riparian environments within the city and provide the best protection to riparian area functions. However, according to table 9.3, buffers in Recreation Areas for water-dependent uses are allowed to be reduced to 0'. Transportation facility setbacks are allowed to be reduced to 100' or 150'. Higher intensity water-dependent uses which require buffer widths to be reduced to 0' and transportation facility uses are not physical alterations which 'serve to protect or enhance any significant, unique, or highly valued feature...', which is the stated policy for natural environment areas in the City of Moses Lake."	Transportation facilities are only allowed in the natural environment as a conditional use permit (See Table 9.2, Ch. 9, p.13). Approval of conditional use permits is limited to those that can meet the criteria listed in 12-20-050, including no significant adverse effects to the shoreline environment, including cumulative impacts of similar projects (Ch.12, p.4). The Transportation Facilities provisions in 7-110 (Ch.7, p.16-18) minimizes roads and bridges in all shoreline environments. The Cumulative Impacts Analysis (Oct. 2013) found no net loss of shoreline functions is anticipated to result from the maintenance or development of transportation uses (p.33). By its definition, a water-dependent use cannot exist in a location that is not adjacent to the water. Water-dependent uses can't have a setback from the water, or they won't work. So the setback can't be increased. Water dependent recreation uses are only allowed in the natural environment as a conditional use permit (See Table 9.2, Ch. 9, p.12). Approval of conditional use permits is limited to those that can meet the criteria listed in 12-20-050,	Concur

			including no significant adverse effects to the shoreline environment, including cumulative impacts of similar projects (Ch.12, p.4). The Recreational Uses provisions in 7-90 (Ch.7, p.12-13) require no net loss of shoreline ecological functions, compatibility, and minimizing any adverse environmental effects. Recreation is limited to uses that complement their surroundings and protect natural areas (Policy #5). Protection of the natural character, resources, and ecology of the shoreline is addressed in Policy #10. The Cumulative Impacts Analysis (Oct. 2013) found no net loss of shoreline functions is anticipated to result from recreational uses (p.30).	
Setbacks – SR-S	Eric Pentico - WDFW	WDFW recommends Aquaculture, Boating Facilities, and Recreation water-dependent uses not be allowed unless absolutely necessary in SR-S designated areas within the City of Moses Lake and that required buffers for recreational trails be expanded to a minimum width of 25'. "Shoreline areas designated SR-S within the City of Moses Lake demonstrate some ecological impairments, but '...they also retain important ecological functions and have high potential for ecological protection and restoration because they include relatively large tracts that have not been subdivided or include large wetland areas.' (Table 9.1) Proposed buffers listed in Table 9.3 for SR-S designated areas that could hinder properly functioning ecological conditions or interfere with future restoration efforts include the allowed buffer reduction for Aquaculture water-dependent structures and facilities to 0', Boating water-dependent facilities to 0', and Recreation water-dependent uses and paths and trails reduced to 0' and 15'."	<p>Aquaculture: We could prohibit this in the SR-S designation. It was our understanding that we were supposed to allow/encourage aquaculture as a priority use in shorelines.</p> <p>Boating Facilities: The only boating facilities allowed in SR-S are boat lifts. It is our understanding that boat lifts have very minimal impact.</p> <p>Recreation: Same as for Natural, above.</p> <p>Buffers for trails: All recreational uses in the SR-S designation, including trails, are conditional uses, so all the safeguards listed above for Recreational Uses in the Natural Designation are in place.</p>	Aquaculture is exceptionally unlikely in Moses Lake, but as a water dependent use, it should be accommodated where appropriate. We generally concur with this response.
Setbacks – SR-R	Eric Pentico - WDFW	WDFW recommends buffers for water-related, water-dependent and water enjoyment structures and facilities in areas that are currently functioning properly or may possibly be restored to proper functioning conditions be set at a minimum of 65' wide and buffer widths for paths and trails should only be allowed to be reduced to 25'. "Residential uses should have the buffers expanded to a minimum of 65' to retain most functioning conditions and allow for adequate restoration of degraded areas. SR-R designated lands, similar	65' buffers in SR-R: Most of the proposed buffers in SR-R are 50' or more. The proposed residential buffer in SR-R is 25', 50', or 100', depending on the existing conditions. In places where there are existing houses built 25' back from the water and only a few scattered vacant lots, the buffer was set at 25', since there isn't ecological function left to preserve in those areas. The places that did have ecological	Ecology generally concurs with this response. Without further information, it is not clear why the commenter is proposing that 65' is a more appropriate buffer width than those

		to SR-S lands, demonstrate impairments to ecological functions, but 'They retain important ecological functions and have the potential for development that is compatible with ecological protection and restoration.' (Table 9.1) Proposed buffers in table 9.3 that could hinder properly functioning ecological conditions and impair potential restoration efforts include 0' and 50' buffers for Aquaculture water-dependent and water-related structures, 50' Commercial water-related and water-enjoyment buffers, and 35' & 10' Recreation water-oriented uses and Recreational path/trail buffers. In addition, 25' and 50' buffer widths are allowed for dwelling units and non-water-dependent accessory structures in Residential uses areas."	function remaining were set at 50' or 100', depending on how much of a buffer currently exists. This varying-width buffer was a recommendation based on the Cumulative Impacts Analysis. See Recommendations to Meet No Net Loss of Ecological Functions in the City's Shoreline Master Program, Oct. 31, 2013, by The Watershed Company. . 25' trail buffer: The Cumulative Impacts Analysis (Oct. 2013) found no net loss of shoreline functions is anticipated to result from recreational uses (p.30).	proposed, and supported by the IAC and CIA documents.
Setbacks - H-R	Eric Pentico - WDFW	WDFW recommends buffers in areas retaining some properly functioning ecological conditions or may be restored should be set for water-related, water-dependent and water-enjoyment structures and Recreation water-oriented uses to a minimum 65' buffer width. Buffer widths for Recreation paths and trails should only be allowed to be reduced to 25'. WDFW recommends buffers in Residential areas be expanded to a minimum of 65' to retain most functioning ecological conditions and allow for adequate restoration of degraded areas. "H-R designated lands demonstrate impairments to ecological functions, but 'They retain important ecological functions and have the potential for development that is compatible with ecological protection and restoration.' (Table 9.1) The proposed buffers listed in Table 9.3 that could hinder properly functioning ecological conditions and impair restoration efforts include 50' buffers for Aquaculture water-related structure and facilities, 50' buffers for Commercial water-dependent and water-enjoyment structures, and 35' & 10' buffers for Recreation water-oriented uses and Recreational paths/trails. For Residential use areas, buffer reductions to 25' are proposed for dwelling units and non-water dependent accessory structures."	50' buffer Aquaculture, 50' Commercial: There are only a few areas designated H-R. All of these areas are zoned Commercial or Industrial. However, in the H-R designation, all commercial uses, even water dependent, are only allowed by conditional use permit. Approval of conditional use permits is limited to those that can meet the criteria listed in 12-20-050, including no significant adverse effects to the shoreline environment, including cumulative impacts of similar projects (Ch.12, p.4). Commercial developments are required to be designed, constructed, operated, and maintained to ensure no net loss of shoreline ecological functions (7-40-020 Policy 8, p.5; 7-40-030 Regulation 2.d, p.6). 35' Recreation: Only water-dependent recreation is allowed outright, water related or water enjoyment recreation uses are CUPs, with all the protections listed above for CUPs. 10' Trail: All water related and water enjoyment recreation uses, including trails, in the H-R environment are conditional uses, so all the safeguards listed above for Recreational Uses in the Natural Designation are in place. The Cumulative Impacts Analysis (Oct. 2013) found	Ecology general concurs with the exception of trail setbacks. The city provided no rationale for the proposed trail buffer in either the SR-R or the SR-S environments, having reduced the buffer from 50' in previous iterations of the SMP to 10' in the SR-R and SR-S environments. Both of these environments are characterized by areas of special or intact ecological function, and are likely to have wetland buffer overlays. With the exception of trails specific to access a dock, there is no compelling reason trails should be located within the shoreline

Commented [GT(1): The first clause states the real issue – there is no rationale. It may have been arbitrary but we can't tell unless they document their rationale

			<p>no net loss of shoreline functions is anticipated to result from recreational uses (p.30).</p> <p>25' Residential: Residential uses, while allowed by the draft SMP in H-R, would be highly restricted by the Commercial and Industrial zoning so would be unlikely to be proposed.</p>	<p>buffer. Trails that parallel the shoreline, depending on the type and construction methods, can be highly destructive to habitat, can create vectors for invasive plants, and can fragment migration corridors. WDFW recommends 25' in its comments.</p>
Setbacks	Eric Pentico - WDFW	<p>WDFW recommends that a 65' buffer be required to retain most functioning ecological conditions and allow for adequate restoration potential of degraded areas. "The SD-D designated areas have '... been found to be relatively intact as regards ecological functions.' and '...has high potential for planned development that combines limited residential use with ecological protection and restoration.' (Table 9.1) Table 9.3 indicates ecological functions and restoration potentials are being adequately protected in most cases. A planned development permit is required for Residential uses."</p>	<p>Trail buffer: The proposed buffer for recreational paths and trails is the same in SR-D as in the Natural Environment.</p> <p>Residential buffer: If reviewing the proposed residential buffer as part of the Planned Development is not sufficient, a specific minimum distance could be set.</p>	<p>SR-D area will be removed and Reach 25 will be afforded AR-R environment designation based on the city designation criteria in Chapter 9, and the lack of applicable standards present in the Municipal Code (Chapter 18.67 – Planned Development District Zone) the city defers to for governing SR-D.</p>
Boating Facilities	Hugo Flores- Department of Natural Resources	<p>7-30 Boating Facilities. 7-30-020.(1) Policies. Page 3. Provide criteria that defines how "maximum feasible protection and enhancement" will be achieved or remove the "maximum feasible" qualifier.</p>	<p>"Maximum feasible" will be removed.</p>	<p>Ecology concurs with this approach, and will include this text edit as a Recommended Change in our Findings and Conclusions</p>
Boating Facilities	Hugo Flores- DNR	<p>7-30 Boating Facilities. 7-30-020 (6). Policies Page 3. Consider using "shall be prohibited" rather than "should" with reference to floating homes, houseboats, and liveaboards.</p>	<p>Per State direction, policies are "should" statements. The "shall" statement comes in the regulation. Floating homes are prohibited in all environment designations in Table 9.2 (under Boating Facilities). A regulation could be added to 7-30-030, the regulations that implement the policies in 7-30-020.</p>	<p>Ecology concurs with this approach, and will work with the city on revised language, should they chose to develop regulations relating to floating homes.</p>

Boating Facilities	Hugo Flores-DNR	7-30 Boating Facilities. 7-30-030 (3). Regulations. Page 4. Provide a numerical value for the minimum required for a dock-to-shore- attachment site abutment.	The minimum for a private dock could be very different from the minimum needed for a commercial or public access dock.	This response does not address the comment provided, it merely states that two different standards may need to be developed. Ecology will coordinate with the city on possible alterations to the text.
Boating Facilities	Hugo Flores-DNR	7-30 Boating Facilities. 7-30-030 (5). Regulations. Page 4. At "...The City shall request technical assistance from agencies with jurisdiction...", consider adding DNR to the list of agencies.	DNR will be added to the list of agencies.	Ecology concurs with this approach, and will include this text edit as a Recommended Change in our Findings and Conclusions.
Boating Facilities	Hugo Flores-DNR	7-30 Boating Facilities. 7-30-030 (13). Regulations. Page 4. At "...Boat houses, as non-water dependent structures, are prohibited.". Consider clarifying how a boathouse can be used as a non-water dependent use. Suggests "Boathouses, as a residential use, are prohibited." as replacement text.	We disagree that a boathouse is a residential use. Our definition of a boathouse is a structure over or immediately adjacent to water, used to store watercraft (Ch. 13). Boats can be stored upland, therefore boathouses are not needed and are prohibited.	Ecology concurs with this response.
Commercial Uses	Hugo Flores-DNR	7-40 Commercial Uses. 7-40-030 (1)(b). Regulations. Page 5. Regards prohibition of non-water-oriented uses where "Navigability is severely limited at the proposed site...". Provide criteria for assessing severe limitation on navigability.	We would be open to suggestions for criteria for assessing severe limitations on navigability.	The comment could provide a sensible improvement to the Draft SMP. Ecology will coordinate with the city on possible alterations to the text.
Archeological and Historical Resources	Eric Oosahwee-Voss - Colville Confederated Tribes	"Please be advised that your proposed undertaking (SMP update) lies within the traditional territory of the Moses-Columbia tribe, one of the twelve tribes that make up the Confederated Tribes of the Colville Reservation (also known as the Colville Confederated Tribes or CCT), which is governed by the Colville Business Council (CBC). The CBC has delegated to the Tribal Historic Preservation Officer (THPO) the responsibility of representing the CCT with regard to cultural resources management issues throughout the traditional territories of all of the constituent tribes under Resolution 1996-29."	Noted.	Noted

Archeological and Historical Resources	Eric Oosahwee-Voss - Colville Confederated Tribes	<p>Commenter includes attached general recommended SMP language, without specific text edits for section as follows: "State and local cultural resources laws apply to shoreline development. State laws include RCW 27.53 (Archaeological Sites and Records), which prohibits the unpermitted removal of archaeological materials and establishes a permitting process, and RCW 27.44 (Indian Graves and Records), which describes how human remains must be treated. This shoreline management master plan requires each project proponent to:</p> <ul style="list-style-type: none"> • Consult with the Department of Archaeology and Historic Preservation (DAHP) and Native American tribes to determine if the projects lie within areas of cultural significance. • Conduct background research at DAHP • Conduct a site assessment if cultural resources are recorded in the proposed project area or if requested by DAHP or Native America tribes • Recover archaeological materials in compliance with RCW 27.53 prior to construction • Consult with the County, DAHP, and Native American tribes if resources are discovered during construction • Consider cultural resources in planning for public spaces and access <p>Given the importance of shoreline locations throughout the human history of Washington, the potential for cultural resources should be considered high for any shoreline development permit unless demonstrated otherwise. To comply with state and local law, applicants should perform records searches at DAHP and require cultural resources site assessments in high potential areas where resources are recorded on or near the project lands. If the probability of unrecorded resources is high, applicants should be prepared to follow the provisions of RCW 27.53 and 27.44 if cultural resources are identified or encountered during the planning or construction process."</p>	<p>Earlier versions of the SMP included a requirement that subdivisions and commercial development submit a site inspection and evaluation, unless deemed unnecessary by DAHP. This requirement was removed by the Planning Commission as it was felt the other regulations were protective enough. Our current permit process includes notifying DAHP & CCT for all shoreline permits that include ground or lakebed disturbance. If no comments are received, we assume there are no cultural resources concerns about the site/project.</p> <p>In addition, 6-20-030 Regulation 3 (p.3) requires immediate stoppage of work and notification of the City, DAHP, & CCT if anything of possible archaeological interest is uncovered.</p>	<p>Ecology appreciates the thoughtful comments provided by the Tribe. While we believe incorporation of the proposed language would improve the SMP, Ecology generally concurs with this response. The SMP complies with WAC 173-26-221(1). Any changes to the cultural resources section will be at the city's discretion. The city is aware of the need to comply with the provisions of RCW 27.53 and 27.44 as indicated.</p>
Archeological and Historical Resources	Gretchen Kaehler - State Dept. of Archaeology	<p>In regard to 6-20-010, recommended change to this statement would read something like the following: "The following policies and regulations apply to sites, buildings, structures, districts, and objects within the shoreline</p>	<p>The recommended change can be made. Here is the text as modified: The following policies and regulations apply to all "Historical/Archaeology Areas" identified</p>	<p>Ecology concurs with this approach, and will include this text edit as a Recommended</p>

Commented [GT(2)]: Here we acknowledge the suggestion would improve the SMP. It seems redundant to repeat it below, where it dilutes the point that these improvements are at the city's discretion

Commented [GT(3)]: This assessment is not tentative. The city has adopted the minimum requirements that are the basis for our approval.

	and Historic Preservation	jurisdiction that are identified in the Shoreline Inventory and Characterization; that are recorded at the Washington Department of Archaeology and Historic Preservation; and/or within local jurisdictions including the City of Moses Lake, Grant County, and affected Indian tribes; or that have been inadvertently discovered.	in the Shoreline Inventory and Characterization and on all sites, buildings, structures, districts, and objects within shoreline jurisdiction that are identified in the Shoreline Inventory and Characterization; having archaeological or historic resources that are recorded at the Washington Department of Archaeology and Historic Preservation (DAHP); and/or within local jurisdictions, including the City of Moses Lake, Grant County, and affected Indian tribes; or that have been inadvertently uncovered-discovered .	Change in our Findings and Conclusions.
Archeological and Historical Resources	Gretchen Kaehler - State Dept. of Archaeology and Historic Preservation (DAHP) (note that comments by this reviewer were provided 56 minutes after the comment period closed on March 4th)	We recommend clarifying Policy 6-20-020 (4) as to the purpose of this policy. It is unclear as to why access to these resources should be at public expense. Access to archaeological sites should be restricted to appropriate parties. Also please be aware the location of archaeological site is exempt from public disclosure to prevent looting and depredation (RCW 42.56.300).	We will delete this policy in Chapter 6, p. 2.	Ecology concurs with this approach, and will include this text edit as a Recommended Change in our Findings and Conclusions.
Archeological and Historical Resources	Gretchen Kaehler - DAHP	We recommend that "The completed archaeological evaluation should be submitted to DAHP and the interested Tribe for review prior to the issuance of any shoreline permits" to Policy 6-20-30(2).	We will incorporate the recommendation as follows: An evaluation and a report meeting the minimal reporting standards of DAHP, prepared by a cultural resource management professional who meets the qualification standards promulgated by the National Park Service and published in 36 CFR Part 61, shall be required before the start of any ground disturbance work in any area known to contain archaeological or historic resources. The City may require such an evaluation prior to the issuance of any shoreline permit or shoreline exemption. The completed archaeological evaluation	Ecology concurs with this approach, and will include this text edit as a Recommended Change in our Findings and Conclusions.

			<u>shall be submitted to DAHP and the interested Tribe for review prior to issuance of any shoreline permits.</u>	
Archeological and Historical Resources	Gretchen Kaehler - DAHP	In the definitions in Chapter 13, we note the inclusion of a definition of "archaeological resources." However, we recommend that definitions for cultural resources be broadened to be clear that the Shoreline Master Program addresses a broader range of cultural resource types.	We would be willing to consider including a definition of cultural resources.	Ecology did not receive an alternate definition of Cultural Resources from the City as a part of its response. As written, the SMP complies with WAC 173-26-221(1).
Archeological and Historical Resources	Gretchen Kaehler - DAHP	In regard to Appendix A Mitigation, it should be made clear elsewhere in the document (such as in section 6-20) that mitigation will also pertain to cultural resources that are negatively impacted and should be identified and implemented in consultation with DAHP, affected Tribes, and other appropriate affected parties.	The Mitigation Appendix is specific to ecological mitigation, with plant survival rates, irrigation, monitoring, etc. Cultural resources impacts would need to be mitigated very differently. Since cultural resources are already regulated by the state, we would defer to state requirements for mitigation should any resources be found.	Ecology generally concurs with this response. The SMP complies with WAC 173-26-221(1). Any changes to the cultural resources section will be at the city's discretion.
Archeological and Historical Resources	Gretchen Kaehler - DAHP	There is little specificity or process with regard to cultural resources. There are also no details on how previously recorded archaeological sites will be recognized during pre-project review. We recommend that the City of Moses Lake enter into a data sharing agreement with DAHP so that archaeological and historic sites can be identified prior to project construction.	Our current permit process includes notifying DAHP & CCT for all shoreline permits that include ground or lakebed disturbance. If no comments are received, we assume there are no cultural resources concerns about the site/project.	Ecology generally concurs with this response. While entering into a data sharing agreement is a sensible recommendation, the SMP as submitted complies with WAC 173-26-221(1). Any changes to the cultural resources section will be at the city's discretion.
Archeological and Historical Resources	Gretchen Kaehler - DAHP	We also recommend adding process and specificity to the shoreline management plan regarding cultural resources. We have attached DAHP's model shoreline management language for that purpose. (commenter provides copy of the DAHP model language for SMPs).	We prefer to keep our regulations as short as possible. We believe we have provided adequate protection with the regulations as proposed.	While the suggested model SMP language may provide for more specificity, and may improve implementation of the cultural resources provisions, the SMP as submitted complies

				with WAC 173-26-221(1).
Comments received during Local Government public comment period – Unresolved at local adoption Selected text local submittal document: "City Council Public Hearing and Comments Responsiveness Summary"				
Comment Topic	Name of Commenter	Specific Comment	Local Government Response and Rationale	Ecology Response
Wetlands - mitigation	Jeremy Sikes (Ecology)	p.16. 6-30-070-C-5-e-v (mitigation ratios). <i>While the provisions are generally well written and thorough, this compensatory mitigation standard does not reflect the most current science on wetland mitigation, and per the Cumulative Impacts Analysis (Watershed Co. 2013) will result in net loss of ecological function. Ratios should be similar to those found in Wetlands in Washington State Vol. 2 or Ecology's Small Cities Guidance which was the source for many of the wetland provisions in this SMP. Wetland impacts from fill also require authorization from Ecology and possibly from the US Army Corps of Engineers. Mitigation ratios...were co-developed by Ecology and the Corps, and would be required for an applicant to obtain the needed permits. Revising the SMP to align with federal and state requirements will ensure that applicants have a predictable process to follow when they wish to do a project that will impact wetlands.</i>	The Planning Commission recommendation of not requiring mitigation for any larger area than has been impacted is supported by the City Council.	This previous comment from Ecology observed that the draft language would not meet the standards required in WAC 173-26-221(c)(i), or 173-26-201(2)(a)(i)(E) and (F) Mitigation. The mitigation language will be revised as a required change.
Wetlands - buffers	Jeremy Sikes (Ecology)	p.18. Table 6.1. Buffers for Category 3 and 4 wetlands have been reduced arbitrarily from 60' (with additional buffers of 30' and 60') and 40'; to 25' for both categories with no additional area for higher scores.	The Planning Commission recommendation of a 25' buffer for Category 3 and 4 wetlands is supported by the City Council and has been determined to be adequate based on the Cumulative Impact Analysis developed by The Watershed Company.	This previous comment from Ecology observed that the draft language would not meet the standards required in WAC 173-26-221(c)(i), or 173-26-201(2)(a). Generally Ecology finds the CIA/ CIR to be thorough and well done, however this particular conclusion of the CIA is in error. Buffers for Category 3 and 4 wetlands have been reduced without adequate documented

Commented [GT(4): Maybe keep the focus on the problem of not having rationale. There are circumstances where reductions might not be arbitrary but they haven't adequately demonstrated that in this case

				<p>rationale from 60' (with additional buffers of 30' and 60') and 40'; to 25' for both categories with no additional area for higher scores. While we recognize that the CIR report prepared by Watershed Co. made recommendation that Category 3 wetlands should be provided a 25' buffer, the underlying analysis, and the proposed buffers do not reflect the totality of the recommendation. Watershed Co, makes the statement that "...proposed buffers should either be: 1) consistent with existing conditions, or 2) consistent with recommendations of the "most current, accurate, and complete scientific and technical information available that is applicable to the issues of concern" (WAC 173-26-201(2)(a))." This is an incorrect interpretation of the WAC. The analysis of existing conditions is informative and should be considered, those conditions must</p>
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Commented [GT(5)]: Some changes here to reflect the latest Findings and Conclusions narrative on page 4.

				<p>be analyzed consistent with the requirement under WAC 173-26-201(2)(a). The analysis performed regarding category 3 wetland buffers presented does not meet the definition under 201(2)(a), having only one, unverified category 3 wetland, along with subjective conclusions about function based on aerial photo interpretation as its basis. In addition, the proposed buffer regulations do not reflect the totality of the CIA recommendations because they do not require additional buffer width for higher habitat scores or for non SR-R designations. Category 4 wetland buffers should align with the science-based buffer of 40 feet (Small Cities Guidance-Ecology Publication No. 10-06-001).</p>
Docks	Jeremy Sikes (Ecology)	<p>p.6. 7-50-020 (Dock Policies). <i>Per RCW 173-26-231(3)(b), SMPs should* contain a provision that "requires new residential development of two or more dwelling units to provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence." The recently adopted Grant County SMP provides clear language and feasibility</i></p>	<p>The Planning Commission recommendation not requiring new residential development of two or more dwelling units to share a dock is supported by the City Council.</p>	<p>Per WAC 173-29-321(3)(b), the city has not provided "...a demonstrated, compelling reason, based on policy of the Shoreline Management</p>

		<p>review standards to this effect, and was developed specifically for Moses Lake (See May 2012 Grant County Draft SMP Section 24.12.390 Private Moorage Facilities, p.64-66)</p> <p><i>*Note that when used in the context of an SMP update, "Should" means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action (WAC 173-26-020(35)).</i></p>		<p><i>Act and this chapter, against taking the action."</i> Without this, the SMP must require the use of joint use docks when feasible, and revised language will be provided as a required change.</p>
Docks	Jeremy Sikes (Ecology)	p.7. 7-50-030 (Dock Regulations). See comments above about joint-use docks.	The Planning Commission recommendation not requiring new residential development of two or more dwelling units to share a dock is supported by the City Council.	Per WAC 173-26-231(3)(b), the city has not provided "...a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action." Without this, the SMP must require the use of joint use docks when feasible, and revised language will be provided as a required change.
Docks	Jeremy Sikes (Ecology)	p.9. 7-50-030-C (Joint-use community docks). Expand this section to include developments of two or more dwellings.	The Planning Commission recommendation not requiring new residential development of two or more dwelling units to share a dock is supported by the City Council.	Per WAC 173-29-321(3)(b), the city has not provided "...a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action." Without this, the SMP must require the use of joint use docks when feasible, and revised language will be provided as a required change.

Docks	Jeremy Sikes (Ecology)	p.15. 7-100-020-7 (Residential). Statement "Individual docks should be allowed for lots in subdivisions with joint-use or community docks" is not consistent with the WAC requirements. See above comments regarding the requirement to provide for joint-use docks on developments of 2 or more dwelling units.	There are currently only 3 developments in city limits where individual docks were limited and joint use (1 development) or community (2 developments) docks were planned. See above comments for limited extent of provisions that affect new shoreline subdivisions.	While it may be accurate that there are very limited circumstances where the provision would apply, this is not determinative in the requirement under the cited WAC that SMPs must require joint use docks where feasible. Revised language will be provided as a required change.
Docks	Jeremy Sikes (Ecology)	p.16. 7-100-030 (Residential Regulations). <i>New multi-unit residential development (including subdivision of land for more than 4 parcels) is required to provide community and/or public access in conformance to local public access plans per WAC 173-26-241(3)(j).</i>	There are only 3 large parcels remaining in the City that this provision would apply to, plus possibly a few smaller ones on the lower Peninsula (see vacant land map).	While it may be accurate that there are very limited circumstances where the provision would apply, this is not determinative in the requirement under the cited WAC that SMPs must require public access for new multi-unit developments. Revised language will be provided as a required change.
Buffers - platted	Jeremy Sikes (Ecology)	p.17. 7-100-030-11 (plats with wetland or shoreline buffers set during the platting process prior to adoption of updated SMP). <i>This section requires some additional discussion between the City and Ecology, and may need to be refined.</i>	Additional discussion between Ecology and City of Moses Lake shall take place prior to final approval of SMP.	Please see Attachments A and B for more detailed discussion.
Public Access	Jeremy Sikes (Ecology)	p.15. 7-100-020-6 (Residential). <i>New multi-unit residential development (including subdivision of land for more than 4 parcels) is required to provide community and/or public access in conformance to local public access plans per WAC 173-26-241(3)(j).</i>	There are only 3 large parcels remaining in the City that this provision would apply to, plus possibly a few smaller ones on the lower Peninsula (see vacant land map).	While it may be accurate that there are very limited circumstances where the provision would apply, this is not determinative in the requirement under the

				cited WAC that SMPs must require public or community access for new multi-unit developments. Revised language will be provided as a required change
Bulkheads	Jeremy Sikes (Ecology)	p.12. 8-30-070 (bulkhead regulations: "A bulkhead-type structure used to stabilize a dock may be permitted, but the size shall be limited to the minimum necessary for the dock. The stabilization structure shall not exceed 2' wider than the dock on each side nor shall it exceed 14' in total width along the shoreline.") <i>There are a number of problems with this provision (list)...Consider removing this provision, or providing detailed standards by which a project that incorporates a mini-bulkhead demonstrates need, avoids impacts, and mitigates for unavoidable impacts, and tie it more to the dock construction process.</i>	This provision was added at the suggestion of Doug Pineo, when he was the Department of Ecology reviewer of shoreline master programs. It can be deleted.	Ecology supports the deletion of this language, but it appears to still be present in the locally adopted draft. The text is deleted as a Recommended Change in our Findings and Conclusions
Buffers	Eric Pentico (WDFW)	Shoreline Residential Special Resource (SR-S) Environment, p.11 to 16 Table 9.2 & 9.3. <i>Shoreline areas designed SR-S within the City of Moses Lake demonstrate some ecological impairments, but "...they also retain important ecological functions and have high potential for ecological protection and restoration because they include relatively large tracts that have not been subdivided or include large wetland areas." (Table 9.1) Some of the proposed buffers listed in Table 9.3 for the SR-S designated areas could significantly hinder properly functioning ecological conditions or interfere with future restoration efforts. ...</i> <i>buffer reductions to 15 ft. wide are allowed for trails in the Recreation use areas.</i> <i>WDFW recommends... required buffers for recreational trails be expanded to a minimum of 25 ft.</i>	Trail: The Planning Commission specifically reduced the recreational trail distance from the initially proposed 50' to 15'.	The city provided no rationale for the proposed trail buffer in either the SR-R or the SR-S environments. These environments are characterized by areas of special or intact ecological function, and are likely to have wetland buffer overlays. With the exception of trails specific to access a dock, there is no compelling reason trails should be located within the shoreline buffer. Trails that parallel the shoreline, depending on the type and construction methods, can be highly destructive to habitat,

				can create vectors for invasive plants, and can fragment migration corridors.
Buffers	Eric Pentico (WDFW)	<p>Shoreline Residential Resource (SR-R) Environment, p.11 to 16 Table 9.2 & 9.3. <i>SR-R designated lands demonstrate impairment to ecological functions, but "They retain important ecological functions and have the potential for development that is compatible with ecological protection and restoration" (Table 9.1).... WDFW recommends buffers for water-related structures and facilities in areas that are properly functioning ecologically or may be restored should be set at a minimum of 65' and buffer widths for paths and trails should only be allowed to be reduced to 25'. SR-R areas having Residential uses should have the buffers expanded to a minimum of 65' to retain most functioning ecological conditions and allow for adequate restoration of degraded areas.</i></p>	<p>...</p> <p>Residential: The residential buffers are based on the Cumulative Impacts Analysis and Recommendations, which found no cumulative impacts for the 25' and 50' buffers as proposed. Most shoreline residential lots have already been developed—see Vacant Incorporated Residential Lots map.</p> <p>Buffer for paths and trails: The Planning Commission specifically reduced the recreational trail distance from the initially proposed 50' to 10'.</p>	<p>The city provided no rationale for the proposed trail buffer in either the SR-R or the SR-S environments. These environments are characterized by areas of special or intact ecological function, and are likely to have wetland buffer overlays. With the exception of trails specific to access a dock, there is no compelling reason trails should be located within the shoreline buffer. Trails that parallel the shoreline, depending on the type and construction methods, can be highly destructive to habitat, can create vectors for invasive plants, and can fragment migration corridors. Ecology can work with the city to develop required language to provide greater specificity in trail location regulations, while protecting the most sensitive riparian areas.</p>



CITY OF MOSES LAKE
STAFF REPORT

To: John Williams, City Manager
From: Gilbert Alvarado, Community Dev. Dir/Deputy City Manager
Date: June 28, 2016
Proceeding Type: Motion
Subject: Resolution - Nuisance Abatement – 9972 Sunny Dr NE

Legislative History:

- | | |
|------------------------|---------------|
| • First Presentation: | June 28, 2016 |
| • Second presentation: | |
| • Action: | Motion |
-

Staff Report Summary

Attached is a resolution providing for the abatement of nuisance at 9972 Sunny Dr NE owned by Roland & Anastacia Huff. The Council should hold a hearing to consider the allegations of the Code Enforcement Officer that the property contains a public nuisance which has not been corrected. If the Council concurs that a public nuisance exists, the resolution should be adopted allowing the City to remove the public nuisance.

Background

The code enforcement matter at 9972 Sunny Dr NE was founded by the Code Enforcement Officer while on routine patrol of the city. In accordance with MLMC 8.14, Nuisances, the site was inspected and determined to be a nuisance pursuant to MLMC 8.14. See attached May 4, 2016 Notice of Violation and Order to Correct or Cease Activity.

Fiscal and Policy Implications

N/A

Options

<i>Option</i>	<i>Results</i>
<ul style="list-style-type: none">Consider the Resolution abating the existing nuisances at 9972 Sunny Dr NE	Compliance with MLMC 8.14, Nuisances
<ul style="list-style-type: none">Consider the Resolution and take no action	Non-Compliance with MLMC 8.14, Nuisances

Staff Recommendation

Staff recommends that City Council consider abating the existing nuisance at 9972 Sunny Dr NE and pass the Resolution as presented.

Attachments

A.	Resolution No. 3619
B.	Exhibit 1 - 4

Legal Review

The following documents are attached and subject to legal review:

Type of Document	Title of Document	Date Reviewed by Legal Counsel
<ul style="list-style-type: none">Resolution	Nuisance Abatement	City Attorney, Katherine Kenison

RESOLUTION NO. 3619

A RESOLUTION DETERMINING THAT ROLAND C. AND ANASTACIA HUFF ARE THE OWNERS OF CERTAIN REAL PROPERTY WITHIN THE CITY; THAT A NUISANCE REQUIRING ABATEMENT BY CITY FORCES OR FORCES CONTRACTED BY THE CITY EXISTS ON SUCH PROPERTY; AND DIRECTING THE USE OF SUCH FORCES TO ABATE THE NUISANCE FOUND

Recitals:

1. Real Property Location and Ownership. It is alleged by a Code Enforcement Officer of the City, a person authorized to enforce the ordinances and municipal code of the City, that the real property located at 9972 NE Sunny Drive (Lot 1, Block 3, Longview Tracts), Parcel #120405000, Moses Lake, Washington, is the site of public nuisance violations of Moses Lake Municipal Code (MLMC) 8.14.030. The records of Grant County show the owners of the subject property to be Roland C. & Anastacia Huff, 4917 E. Commerce Avenue, Spokane, WA 99212.
2. Notice. On May 4, 2016, the Code Enforcement Officer caused to be delivered by regular mail and certified mail to the owner of record of the subject property a Notice of Violation and Order to Correct or Cease Activity. No appeal was filed to challenge that order. The time to comply under that order has passed. The nuisance described in that order has not been abated by correction of the condition of the property and a nuisance continues to exist on the subject property. On June 16, 2016 the Code Enforcement Officer caused to be delivered to Roland and Anastacia Huff a notice of the intent of the City Council to consider adoption of a resolution such as this at its meeting of June 28, 2016. Such notice was in writing, in the English language and was delivered by return receipt mail and regular mail to the record owner of the subject property.
3. Violations. It has been established by the Notice of Violation and Order to Correct or Cease Activity that the following violations exist on the subject property and have not been corrected:
 - 3.1 A violation of MLMC 8.14.030 U - 8.14.030 - Nuisance Defined. Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the Code Enforcement Officer determines that any of these conditions exist upon any premises or in any stream, drainage way or wetlands, the officer may require or provide for the abatement thereof pursuant to this chapter.
 - U. Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground.
 1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property.
 2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.

4. Hearing. On June 28, 2016 the Moses Lake City Council conducted a hearing to consider the allegations of the Code Enforcement Officer that the subject property contains a public nuisance ordered corrected which remains uncorrected and that the record owner is responsible for the costs of correcting and abating such violations if such corrections and abatement is accomplished by City forces or forces contracted by the City for such purpose. All interested persons were permitted to provide written or oral evidence relevant to the issue.
5. Evidence:
 - 5.1. The following persons testified under oath:

Rick Rodriguez, Moses Lake Code Enforcement Officer
 - 5.2. The following exhibits were made a part of the record of the proceedings:

EXHIBIT #1: Moses Lake Municipal Code Chapter 8.14.030 U

EXHIBIT #2: Notice of Violation and Order to Correct or Cease Activity dated May 4, 2016 from the Code Enforcement Officer addressed to Roland C. And Anastacia Huff, 4917 E. Commerce Avenue, Spokane, WA 99212

EXHIBIT #3: Pictures taken by Code Enforcement Officer of the property located at 9972 NE Sunny Drive, Moses Lake, Washington.

EXHIBIT #4: Letter dated June 16, 2016 from the Code Enforcement Officer to Roland C. And Anastacia Huff advising the property owner of the hearing regarding abatement of property, scheduled for June 28, 2016.

Resolved:

1. A public nuisance in violation of MLMC 8.14.030 exists on the subject property at 9972 NE Sunny Drive, Moses Lake, Washington. Roland C & Anastacia Huff, 4917 E. Commerce Avenue, Spokane, WA 99212 are the record contract owners of the subject property per the records of Grant County.
2. The public nuisance located upon the subject property consists of:
 - 2.1. Weeds in excess of 12" in height
3. The maintenance of these public nuisance violations on the subject property by the record owner is detrimental to the health, safety, welfare, peace and tranquility of the residents of the City impacting the quality of life and diminishing property values.
4. Roland C. & Anastacia Huff, the record contract owners, have fifteen (15) days from the date of the adoption of this resolution to cause the nuisance violations listed herein to be removed to the satisfaction of the Code Enforcement Officer. Those improvements include the following:
 - 4.1 Weeds must be cut down and/or removed from the site
5. City staff shall provide a status report to City Council on the progress of the record contract owners and occupant to make the clean up required on the subject property. If the improvements, as listed above, are not to the satisfaction of the Code Enforcement Officer,

the City is authorized to use City forces or contract forces to cause the identified public nuisances to be removed from the subject property to the satisfaction of the City Manager. All costs of any removal of the identified public nuisances done at City expense shall be recovered by the City Manager by all reasonable means including immediate assignment of the costs so incurred for collection.

6. A copy of this resolution shall be provided to the record contract owner by return receipt and regular mail after its approval by the City Council.

Adopted by the City Council on June 28, 2016.

Todd Voth, Mayor

ATTEST:

W. Robert Taylor, Finance Director

8.14.030 Nuisance Defined. Each of the following conditions, unless otherwise permitted by law, is declared to constitute a public nuisance, and whenever the Code Enforcement Officer determines that any of these conditions exist upon any premises or in any stream, drainage way or wetlands, the officer may require or provide for the abatement thereof pursuant to this chapter.

- U. Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground.
 - 1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property.
 - 2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.



City of Moses Lake

PO Drawer 1579
Moses Lake, WA 98837
Phone: (509) 764-3750

NOTICE OF VIOLATION AND ORDER TO CORRECT OR CEASE ACTIVITY

DATED: Wednesday, May 4, 2016

ISSUED TO:

ROLAND C & ANASTACIA HUFF
4917 E COMMERCE AVE
SPOKANE, WA 99212-1367

CASE #: COD2016-0368

YOU ARE HEREBY ORDERED TO CORRECT OR CEASE THE ACTIVITY AS FOLLOWS:

Weeds and grasses in excess of 12" in height are present in the front and side areas of this home.

The City is requiring these corrections listed on this Notice and Order be accomplished by Saturday, May 14, 2016.

ACTION NECESSARY TO CORRECT VIOLATION

Weeds and grasses must be cut to lower than 12" in height.

LOCATION OF UNLAWFUL CONDITION

LOCATION: 9972 NE SUNNY DR, MOSES LAKE
LEGAL DESC: Lot 1 Block 3 Longview Tracts

PARCEL: 120405000

PROVISIONS OF THE CITY OF MOSES LAKE CODE VIOLATED

8.14.030.U - Maintenance of grasses, weeds, etc

Except for any designated public park land, natural area, or environmentally sensitive area, or any undeveloped parcels of land not adjacent to developed areas or which are used for agricultural purposes, all grasses, weeds, or other vegetation growing or which has grown and died, which is determined to be a fire or safety hazard or a nuisance to persons, shall not exceed twelve inches (12") in height measured above the ground. 1. The above exception may be waived and additional maintenance required by the Code Enforcement Officer if he determines such action is necessary to protect the safety of persons or adjoining property. 2. All maintenance shall be done in a manner so that soil stability will not be disrupted or disturbed. Grass, weed, or vegetation control shall not include plowing, discing, or scraping the soil to eliminate the grasses, weeds, or other vegetation unless a soil stabilization plan, which will minimize blowing dust and maintain soil stability and which shall be approved by the city prior to any plowing, discing, or scraping, is implemented immediately.

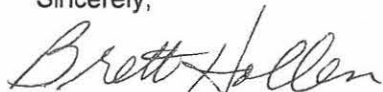
YOU ARE FURTHER NOTIFIED THAT THE MOSES LAKE CITY CODE PROVIDES FOR THE FOLLOWING PENALTIES:

1. Any violation for which a Notice of Violation and Order to Correct or Cease Activity has been issued but which has not been corrected within the time specified shall incur a civil penalty of two hundred fifty dollars (\$250) per day up to a sum of five thousand dollars (\$5000), beginning on the day the correction was to be completed. The cumulative penalty provided for in this paragraph shall not accrue while an appeal is pending, nor shall the penalty preclude the initiation of appropriate legal action to correct the violation. [1.20.050(E)(1)].
2. If a penalty has been assessed pursuant to 1.20.050(E)(1), a Court shall assess that penalty and any additional penalty the Court considers appropriate plus court costs and attorney's fees.

YOU MAY APPEAL THIS NOTICE AND ORDER TO THE HEARING EXAMINER WITHIN TEN (10) DAYS, PURSUANT TO SECTION 20.03.050 OF THE MOSES LAKE CITY CODE AND BY PAYMENT OF AN \$800 FEE.

YOU ARE FURTHER NOTIFIED THAT IF THE AFORMENTIONED VIOLATION IS NOT CORRECTED AS SPECIFIED HERIN THIS MATTER WILL BE REFEREEED TO THE CITY ATTORNEY FOR CIVIL ENFORCEMENT BY INJUNCTION OR OTHER APROPRIATE ACTION.

Sincerely,

A handwritten signature in cursive script that reads "Brett Hollen".

BRETT HOLLEN
Code Enforcement Officer







04/21/2016 08:19



City of Moses Lake

PO Drawer 1579
Moses Lake, WA 98837
Phone: (509) 764-3750

DATED: Thursday, June 16, 2016

ROLAND C & ANASTACIA HUFF
4917 E COMMERCE AVE
SPOKANE, WA 99212-1367

RE: Hearing to Permit City Abatement of Nuisance for case file #: *COD2016-0368*
Property Located at: 9972 NE SUNNY DR, MOSES LAKE on Parcel 120405000

Via Regular Mail and Return Receipt Mail

ROLAND C & ANASTACIA HUFF

You are identified in the records of the Grant County Assessor as the record owner of real property located within the City of Moses Lake described as: Lot 1 Block 3 Longview Tracts

This property is located at: 9972 NE SUNNY DR, MOSES LAKE on Parcel 120405000

On Wednesday, May 4, 2016 the City of Moses Lake mailed to you by regular mail and return receipt mail a Notice of Violation and Order to Correct or Cease Activity within the time allowed by the City Code. The time specified in that Notice of Violation and Order to Correct or Cease Activity has expired without compliance. As of Saturday, May 14, 2016 the nuisance located on the subject property has not been corrected or removed.

Pursuant to Moses Lake Municipal Code (MLCM) 8.14.070 the City of Moses Lake is giving you notice that it will conduct a hearing before the Moses Lake City Council at the Council's regular meeting on June 28th 2016, which is more than ten days from the date of this letter. That meeting will begin at 7:00 p.m. in the Council Chambers in the Moses Lake Civic Center. The purpose of this hearing is for the City Council to determine if a nuisance exists on your property and if a nuisance is found to exist to direct the abatement of that nuisance by use of City contracted forces. The cost of that abatement will be assessed against you as the owner of the subject property. At the hearing all persons interested in the abatement of the nuisance existing on the subject property will have the opportunity to be heard under oath. At that time, you may present all relevant evidence you wish for the City Council to consider, whether that be documents, photos, or live testimony from yourself or others. At the conclusion of that hearing, it is expected the City Council will determine if an abatement of a nuisance located on the subject property should take place and when.

THIS HEARING IS IMPORTANT. YOUR FAILURE TO PARTICIPATE MAY IMPACT IMPORTANT RIGHTS IN YOUR PROPERTY.

If you have any questions, you may contact the City Manager's Office at the Moses Lake Civic Center, 401 S. Balsam, Moses Lake, WA, phone (509) 764-3701.

Sincerely,

RICK RODRIGUEZ
Code Enforcement Officer

cc: City Manager
City Attorney
Community Development Director