

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.

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

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(2)]: 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(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 ~~#14-06-03004-06-15~~, 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 or, *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.

<u>Category III</u>	<u>2:1</u>	<u>4:1</u>	<u>8:1</u>
<u>Category IV</u>	<u>1.5:1</u>	<u>3:1</u>	<u>6:1</u>

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 <u>21-255</u> habitat points	Additional buffer width if wetland scores <u>26-296-7</u> habitat points	Additional buffer width if wetland scores <u>30-368-9</u> 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)	<u>25'-60'</u>	<u>Add 15' NA</u>	<u>Add 45' NA</u>	<u>Add 75' NA</u>
Category IV (all)	<u>25'-40'</u>	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
<u>25</u>	<u>Undeveloped dunes; emergent vegetation; wetlands; riparian tree cover</u>	<u>UR-3</u>	<u>LDR</u>

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 [prohibited by WAC 173-26-211(5)(c)(ii)A]	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.

Commented [5J(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
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

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 [S/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'	15'	15'	NA	15'
Maximum site coverage (percent) ⁸	40	20	40	20	10	10	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

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.

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 18.53.030.J). Upper Parker Horn, above the Fill, is an example.

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.

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).

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.