

APPENDIX A-1 SHORELINE MASTER PROGRAM DEFINITIONS

A. General Provisions.

The definitions provided herein are supplemental to the definitions provided in Appendix A and only apply for use with the City's SMP, including chapter 21.50 Spokane Valley Municipal Code (SVMC). Solely for purposes of the City's SMP, if a conflict exists between these definitions and definitions in Appendix A, the definitions in Appendix A-1 shall govern. The definition of any word or phrase not listed in Appendix A-1 which is ambiguous when administering the SMP shall be defined by the City's Community Development Director, or his/her designee, from the following sources in the order listed:

1. Any City of Spokane Valley resolution, ordinance, code, or regulation;
2. Any statute or regulation of the State of Washington;
3. Legal definitions from the Hearings Board, from Washington common law, or the most recently adopted Black's Law Dictionary; or
4. The most recently-adopted Webster's New Collegiate Dictionary.

B. Definitions.

Accessory or appurtenant structures: A structure that is necessarily connected to the use and enjoyment of a single-family residence, including garages, sheds, decks, driveways, utilities, fences, swimming pools, hot tubs, saunas, tennis courts, installation of a septic tank and drainfield, and grading which does not exceed 250 cubic yards and does not involve placement of fill in any wetland or waterward of the OHWM.

Agricultural activities: Relating to the science or art of cultivating soil or producing crops to be used or consumed directly or indirectly by man or livestock, or raising of livestock. The term has the full meaning as set forth in WAC 173-26-020(3)(a) as adopted or amended.

Amendment: A revision, update, addition, deletion, and/or reenactment to an existing SMP.

Applicant: A person who files an application for permit under the SMP and may be the owner of the land on which the proposed activity would be located, a contract purchaser, or the authorized agent of such a person.

Aquaculture: The culture or farming of fish, shellfish, or other aquatic plants and animals.

Associated wetlands: Those wetlands (see "Wetlands" definition) that are in proximity to and either influence, or are influenced by, a lake or stream subject to the SMA.

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

Best Management Practices (BMPs): Site-specific design strategies, techniques, technologies, conservation and maintenance practices, or systems of practices and management measures that minimize adverse impacts from the development or use of a site.

Bioengineering: Project designs or construction methods which use living plant material or a combination of living plant material and natural or synthetic materials to establish a complex root grid within the bank which is resistant to erosion, provides bank stability, and promotes a

healthy riparian environment. Bioengineering approaches may include use of wood structures or clean angular rock to provide stability.

Boating facilities: Boating facilities include boat launches, ramps, public docks, commercial docks, and private docks serving more than four residences, together with accessory uses such as Americans with Disabilities Act-compliant access routes, boat and equipment storage, user amenities such as benches and picnic tables, and restroom facilities.

Buffer or Shoreline buffer: The horizontal distance from the OHWM or critical area which is established to preserve shoreline or critical area functions by limiting or restricting development. See Appendix A-2, Shoreline Buffers Map. Permitted development and activities within buffers depend on the type of critical area or resource land the buffer is protecting.

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

Commercial uses: Those uses that are involved in wholesale, retail, service, and business trade. Examples of commercial uses include restaurants, offices, and retail shops.

Conditional use: A use, project, or substantial development which is classified as a conditional use or is not classified within the SMP.

Degrade: To impair with respect to some physical or environmental property or to reduce in structure or function.

Development: A use consisting of the construction or exterior alteration of structures; dredging; drilling; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the SMA at any stage of water level. “Development” does not include dismantling or removing structures if there is no other associated development or re-development.

Development regulations: The controls placed on development or land uses by the City, including, but not limited to, zoning ordinances, building codes, critical areas ordinances, all portions of the SMP other than goals and policies approved or adopted under chapter 90.58 RCW, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto.

Dock: A floating platform over water used for moorage of recreational or commercial watercraft.

Dredging: The removal of sediment, earth, or gravel from the bottom of a body of water, for the deepening of navigational channels, to mine the sediment materials, to restore water bodies, for flood control, or for cleanup of polluted sediments.

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

Ecology: Washington State Department of Ecology.

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

Enhancement: Alteration of an existing resource to improve its ecological function without degrading other existing functions.

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Exemption or Exempt development: Exempt developments are those set forth in WAC 173-27-040 and RCW 90.58.030(3)(e), RCW 90.58.140(9), RCW 90.58.147, RCW 90.58.355, and RCW 90.58.515. See also "Shoreline exemption, letter of".

Feasible: An action, such as a project, mitigation measure, or preservation requirement, which meets all of the following conditions:

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

Fill: The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. Depositing topsoil in a dry upland area for landscaping purposes is not considered a fill.

Flood hazard reduction: Measures taken to reduce flood damage or hazards. Flood hazard reduction measures may consist of nonstructural measures, such as setbacks, land use controls, wetland restoration, dike removal, use relocation, biotechnical measures, and stormwater management programs, and of structural measures, such as dikes, levees, revetments, floodwalls, channel realignment, and elevation of structures consistent with the National Flood Insurance Program.

Footprint: That area defined by the outside face of the exterior walls of a structure.

Forest practices: Any activity relating to growing, harvesting, or processing timber, including, but not limited to, uses defined in RCW 76.09.020.

Grading: The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

Habitat: The place or type of site where a plant or animal lives and grows.

Habitat enhancement: Actions performed within an existing shoreline, critical area, or buffer to intentionally increase or augment one or more ecological functions or values, such as increasing aquatic and riparian plant diversity or cover, increasing structural complexity, installing environmentally compatible erosion controls, or removing non-indigenous plant or animal species.

Hearings Board: The Shoreline Hearings Board established by the SMA.

Height: Height is measured from average grade level to the highest point of a structure; provided that television antennas, chimneys, and similar appurtenances shall not be used in calculating height; provided further that temporary construction equipment is excluded from this calculation.

In-stream structure: A structure placed by humans within a stream or river waterward of the OHWM that either causes or has the potential to cause water impoundment or cause the diversion, obstruction, or modification of water flow. In-stream structures may include those for

hydroelectric generation, irrigation, water supply, flood control, transportation, utility service transmission, fish habitat enhancement, recreation, or other purpose.

Industrial uses: Facilities for processing, manufacturing, fabrication, assembly, and storage of finished or semi-finished products.

Landward: To, or towards, the land in a direction away from a water body.

May: The action is acceptable, provided it conforms to the provisions of this SMP.

Mining: The removal of sand, gravel, soil, minerals, and other earth materials for commercial and other uses.

Mitigation or Mitigation sequencing: To avoid, minimize, or compensate for adverse impacts.

Native: For the purposes of this SMP, "native" means a plant or animal species that naturally occurs in Spokane County, or occurred in Spokane County at the time of Euro-American exploration and settlement, beginning in the early 19th century.

No net loss: The standard for protection of shoreline ecological functions established in RCW 36.70A.480 as adopted or amended, and as that standard is interpreted on an on-going basis by courts, the Growth Management Hearings Board, or the Hearings Board. The concept of "no net loss" as used herein, recognizes that any use or development has potential or actual, short-term or long-term impacts which may diminish ecological function and that through application of appropriate development standards and employment of mitigation measures in accordance with mitigation sequencing, those impacts will be addressed in a manner necessary to assure that the end result will not cumulatively diminish the shoreline resources and values as they currently exist. Where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, the no net loss standard protects to the greatest extent feasible existing ecological functions and favors avoidance of new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions.

Nonconforming lot: means a legally established lot that met dimensional requirements of the applicable master program at the time of its establishment but now contains less than the required width, depth, or area due to subsequent changes to the master program.

Nonconforming structure: A structure within ~~the~~ shoreline jurisdiction which was lawfully constructed or established within the application process prior to the effective date of the SMA or the SMP, or amendments thereto, but which does not conform to present regulations or standards of the SMP.

Nonconforming use: A shoreline use which was lawfully established or established within the application process prior to the effective date of the SMA or the SMP, or amendments thereto, but which does not conform to present regulations or standards of the SMP.

Non water-oriented uses: Any uses that are not water-dependent, water-related, or water-enjoyment as defined by the SMP.

Off-site mitigation: To replace wetlands or other shoreline environmental resources away from the site on which a resource has been impacted by an activity.

Ordinary high water mark (OHWM): The mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as

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it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by the City, provided that in any area where the OHWM cannot be found, the OHWM adjoining freshwater shall be the line of mean high water.

Pier: A fixed platform over water used for moorage of recreational or commercial watercraft.

Priority habitats and species: Habitats and species designated by the Washington Department of Fish and Wildlife as requiring protective measures for their survival due to population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority species include State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations (such as bat colonies) considered vulnerable; and species of recreational, commercial, or tribal importance that are vulnerable. Washington Department of Fish and Wildlife maintains maps of known locations of priority habitats and species in Washington State.

Provisions: Policies, regulations, standards, guideline criteria, or environment designations.

Public access: The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

Public facilities: Facilities and structures, operated for public purpose and benefit, including, but not limited to, solid waste handling and disposal, water transmission lines, sewage treatment facilities and mains, power generating and transfer facilities, gas distribution lines and storage facilities, stormwater mains, and wastewater treatment facilities.

Qualified professional: A person who, in the opinion of the Director, has appropriate education, training and experience in the applicable field to generate a report or study required in this SMP.

1. For reports related to wetlands, this means a certified professional wetland scientist or a non-certified professional wetland scientist with a minimum of five years' experience in the field of wetland science and with experience preparing wetland reports.
2. For reports related to critical aquifer recharge areas, this means a hydrogeologist, geologist, or engineer, who is licensed in the State of Washington and has experience preparing hydrogeologic assessments.
3. For reports related to fish and wildlife habitat conservation areas this means a biologist with experience preparing reports for the relevant type of habitat.
4. For reports related to geologically hazardous areas this means a geotechnical engineer or geologist, licensed in the State of Washington, with experience analyzing geologic, hydrologic, and ground water flow systems.
5. For reports related to frequently flooded areas this means a hydrologist or engineer, licensed in the State of Washington with experience in preparing flood hazard assessments.
6. For reports related to cultural and archaeological resources and historic preservation, this means a professional archaeologist or historic preservation professional.

RCW: Revised Code of Washington.

Recreational use: Commercial and public facilities designed and used to provide recreational opportunities to the public.

Residential use: Uses for residential purpose.

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

Riparian area: The interface area between land and a river or stream. The area includes plant and wildlife habitats and communities along the river margins and banks.

Setback or shoreline setback: The minimum required distance between a structure and the shoreline buffer that is to remain free of structures.

Shall: An action that is mandatory and not discretionary.

Shorelands or shoreland areas: Those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the OHWM; floodways and contiguous floodplain areas landward 200 feet from such floodways; and all wetlands associated with the streams and lakes which are subject to the provisions of the SMA and the SMP; all of which will be designated as to location by Ecology.

Shoreline exemption, letter of: Documentation provided by the City that proposed development qualifies as an Exempt Development (as that term is defined herein) and that the proposed development is consistent with chapter 21.50 SVMC and other local and state requirements, including the State Environmental Policy Act as adopted or amended when applicable.

Shoreline jurisdiction and shoreline areas: All "shorelines of the state" and "shorelands".

Shoreline Management Act (SMA): The Shoreline Management Act of 1971 as set forth in chapter 90.58 RCW as adopted or amended.

Shoreline Master Program (SMP): The comprehensive use plan applicable to the shorelines of the state within the City, including the use regulations, together with maps, goals and policies, and standards developed in accordance with the policies enunciated in RCW 90.58.020.

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

Shoreline permit(s): Means any substantial development, variance, conditional use permit, or revision authorized under chapter 21.50 SVMC and chapter 90.58 RCW.

Shoreline stabilization: Actions taken to prevent or mitigate erosion impacts to property or structures caused by shoreline processes such as currents, floods, or wind action. Shoreline stabilization includes, but is not limited to, structural armoring approaches such as bulkheads, bulkhead alternatives, and nonstructural approaches such as bioengineering.

Shoreline substantial development permit: A permit required by the SMP for substantial development within the shoreline jurisdiction.

Shorelines: All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them, except (a) shorelines of statewide significance; (b) shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less and the wetlands associated with such upstream

segments; and (c) shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

Shorelines of statewide significance: Has the meaning as set forth in RCW 90.58.030(2)(f) as adopted or amended.

Shorelines of the state: The total of all "shorelines" and "shorelines of statewide significance" within the state.

Should: An action which is required unless there is a demonstrated, compelling reason based on policy of the SMA and the SMP, against taking the action.

Substantial development: Any development of which the total cost or fair market value exceeds \$6,416, or any development which materially interferes with the normal public use of the water or shorelines of the state. The current thresholds will be adjusted for inflation by the State Office of Financial Management every five years, beginning from July 1, 2007.

Temporary impact: Impacts to a critical area that are less than one year and expected to be restored following construction.

Transportation facilities: Facilities consisting of the means and equipment necessary for the movement of passengers or goods.

Upland: Generally described as the dry land area above and landward of the OHWM.

Utilities: Services and facilities that produce, convey, store or process power, gas, sewage, water, stormwater, communications, oil, and waste.

Variance: A process to grant relief from the specific bulk, dimensional, or performance standards through submission of a shoreline variance. A variance is not a means to change the allowed use of a shoreline.

Viewing platform: A platform located landward of the OHWM used for viewing pleasure.

WAC: Washington Administrative Code.

Water-dependent use: A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

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

Water-oriented use: A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

Water quality: The physical characteristics of water within the shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics.

Water quantity: The flow rate and/or flow volume of stormwater or surface water. Where used in the SMP, the term "water quantity" refers to uses and/or structures regulated under the SMP affecting water quantity, such as impermeable surfaces and stormwater handling practices.

Water quantity, for purposes of the SMP, does not mean the withdrawal of groundwater or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

Water-related use: A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

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

Wetlands: Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.