SHORELINE MASTER PROGRAM

~~2010 UPDATE~~

2019 Periodic Review Amendment

Funded by a

Washington Department of Ecology Grant: SEASMP-1719-Skytow-00052

~~***ADOPTED by Skykomish Town Council***~~

~~***February 11, 2013***~~

REVIEW DRAFT, FEBRUARY 2019

Amendment by Periodic Review, effective XX/XX/2019

Commented [BHC1]: Effective date will be determined by Ecology's final approval letter, anticipated by July of 2019

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And the many citizens of Skykomish who provided their input to the process by attending public meetings over the course of the project.

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Commented [BHC2]: Checklist Item 2017.c
New sections added for editorial clarification
(Subsequent sections renumbered)

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1 INTRODUCTION

1.1 REQUIREMENTS OF THE SHORELINE MANAGEMENT ACT

In 1971, the State of Washington legislature enacted the Shoreline Management Act (RCW 90.58) in order to address growing concern about the quality of the state's shoreline environments. This Act recognizes that "shorelines are among the most valuable and fragile" of the state's resources. The Act, and the Town of Skykomish, recognize and protect private property rights along the shoreline, while aiming to preserve the quality of this unique resource for all state residents.

The primary purpose of the Act is to provide for the management and protection of the state's shoreline resources by planning for their reasonable and appropriate use. In order to protect the public interest in the preservation of these shorelines, the Act establishes a planning program coordinated between the state and local jurisdictions to address the types and effects of development occurring along the state's shorelines. By law, the Town is responsible for the following:

1. Development of an inventory of the natural characteristics and land use patterns along shorelines covered by the Act.

2. Preparation of a "Master Program" to determine the future of the shorelines.

3. Development of a permit system to further the goals and policies of both the Act and the local Master Program.

1.2 MASTER PROGRAM DEVELOPMENT

The Town of Skykomish began its first shoreline planning process in 1995. The Town held a public hearing in 1997 and adopted the current Shoreline Master Program in September of 1999. On October 25, 2001, Washington State Department of Ecology approved the Skykomish SMP.

1.3 SHORELINE JURISDICTION

~~The~~ Shoreline jurisdiction in the Town of Skykomish includes the in-water areas and adjacent uplands ~~"shorelands"~~ of the Skykomish River and Maloney Creek ~~in the Town of Skykomish~~. The Act and this Master Program apply to "shorelines of the state" which include "shorelines," "shorelines of statewide significance," "shorelands" and associated wetlands. ~~As defined under the Shoreline Management Act, shoreland areas or shorelands are:~~

~~*…those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of*~~

Commented [BHC3]: ECOLOGY REVIEW EDITS, Feb 13, 2019

~~*this chapter; the same to be designated as to location by the department of ecology.*~~

Commented [BHC4]: ECOLOGY REVIEW COMMENT, Feb 13, 2019:
Move this text to the definition of "Shoreland or Shoreland areas" in Chapter 2

Floodways and floodplains in Skykomish, as represented in Maps 6, 7, 8, and 9, are mapped according to the 1998 FEMA FIRM Map panel 528 and the 1998 Draft Work Map of FEMA FIRM panel 528. Appendix D

1.3.1 Map Folio in the 2010 Skykomish Shoreline Master Program Update

1. Map 9 of the Map Folio shows the shoreline jurisdiction as described above for the Town of Skykomish.

2. The map folio is to be used as a guide for the Town, project applicants and/or property owners. The maps are for reference only. The applicant is responsible for determining the exact scope, extent and boundaries of any shoreline element such as jurisdiction boundaries, environmental designations and ordinary high water mark.

1.4 PURPOSES OF THE SHORELINE MASTER PROGRAM

The purposes of this Master Program are:

1. To carry out the responsibilities imposed on the Town of Skykomish by the Washington State Shoreline Management Act (RCW 90.58).

2. To promote the public health, safety, and general welfare by providing a guide and regulation for the future development of the shoreline resources of the Town of Skykomish.

3. To further, by adoption, the policies of RCW 90.58, and the goals of this Master Program, both which hereafter follow.

1.4.1 Legislative Findings and Washington Shoreline Management Act Policies

According to the Revised Code of Washington (RCW) 90.58.020, the Washington State Legislature finds the shorelines of the state are among the most valuable and fragile of the state's natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition, it finds that ever increasing pressures of additional uses are being placed on the shorelines, necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and uplands adjacent thereto are in private ownership and that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state which, at the same time, shall be consistent with public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to ensure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in navigable water, will promote and enhance the public interest. This policy is intended to protect against adverse effects to the public health, the land and its vegetation and wildlife, and the water of the state and its aquatic life, while generally protecting public rights of navigation and its associated activities.

1.4.2 Shorelines of Statewide Significance - the Skykomish River

The Shoreline Management Act designates certain shoreline areas as shorelines of statewide significance (RCW 90.58.030). Among the shorelines designated by the Act were "natural rivers or segments thereof as follows:

> *Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second (cfs) or more" and "those shorelands associated with" these waters.*

Flow data for the Skykomish River show that the River's maximum flow at Skykomish can be estimated at between 22,000 and 25,000 cfs. These figures indicate, therefore, that the Skykomish River is designated as having statewide significance.

Shorelines thus designated are important to the entire state. Because the shoreline of the Skykomish River is a major resource from which all people in the state derive benefit, this master program gives preference to uses which favor public and long range goals. Accordingly, this program gives preference to uses which meet the principles outlined below, listed in order of preference. These principles are incorporated into Town of Skykomish Shoreline Master Program:

1. Recognize and protect the statewide interest over local interest.
2. Preserve the natural character of the shoreline.
3. Result in long-term over short-term benefit.
4. Protect the resources and ecology of shorelines.
5. Increase public access to publicly owned areas of the shoreline.
6. Increase recreational opportunities for the public on the shoreline.

In the implementation of this policy, the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible, consistent with the overall best interest of the state and the people generally. To this end, uses shall be preferred that are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent on use of the state's shorelines. Alteration of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family

residences, ports, parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, and industrial and commercial developments that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state.

Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline areas and interference with the public's use of the water.

1.5 HOW THE SHORELINE MASTER PROGRAM IS USED

The Town of Skykomish Shoreline Master Program is a planning document that outlines the Town's shoreline goals and policies and establishes regulations for development occurring in that area.

In order to preserve and enhance the shoreline of the Town of Skykomish, all development proposals relating to the shoreline area should be evaluated in terms of the Town's Shoreline Master Program. The Town's Shoreline Administrator can provide assistance in identifying what materials should be submitted, if other permit applications should be submitted, etc. Some developments may be exempt from regulation, while others may be required to conform to the established regulations, or others may require special permits to address their particular situation; ALL proposals for development within the shoreline area must comply with the policies and regulations established by the state Shoreline Management Act and adopted by Skykomish in this Shoreline Master Program.

The Shoreline Management Act (SMA) defines the content and goals that should be represented in the shoreline master program developed by each community. It is left to each community to develop, within these guidelines, the specific regulations appropriate to that community.

Under the SMA, all areas within the shoreline jurisdiction receive a shoreline environment designation. The purpose of the shoreline designation system is to ensure that all land use, development, or other activity occurring within the designated shoreline jurisdiction is appropriate for that area and provides consideration for the special requirements of that environment. Skykomish has designated its shoreline in five shoreline environments: Aquatic, Natural, Urban Conservancy, Shoreline Residential, and High Intensity. These environments are described in Chapter 4: Shoreline Environment Designations.

1.5.1 Is A Permit Required?

The Skykomish Shoreline Master Program addresses a wide variety of uses of the shoreline area. This thoroughness is intended to ensure that the Skykomish shoreline area is protected from activities and uses that, if unmonitored, could be developed inappropriately and could cause damage to the ecological system of the shoreline, or cause the degradation of the aesthetic values of the shoreline that the community enjoys. The shoreline master program provides the regulatory parameters within which development may occur, or it states that the community considers a certain type of use or activity is unacceptable on the Skykomish River, or it states that a use or activity may be considered if a conditional review is applied for, but that the community should be

able to ensure that the development is carried out in such a way that the public's interest in protecting the shoreline is retained.

The shoreline master program (SMP) regulates "development" (defined in Chapter 2), and further defines what is considered "substantial development" and , therefore, requires a Shoreline Substantial Development Permit (SSDP), unless exempt. Some development may require a conditional use permit or a variance from the provisions of the master program. Review under the State Environmental Policy Act (SEPA) may also be required.

1.5.2 The Shoreline Permit

In order to simplify the application process for the applicant, the Town of Skykomish has adopted the Joint Aquatic Resources Permit Application, or "JARPA," as a part of its shoreline permit form. The JARPA provides a single application form that can be used to apply to the following agencies and departments for the following applications:

Town of Skykomish

- Shoreline Substantial Development, Conditional Use, Variance Permit or Exemption (within the Skykomish shoreline jurisdiction)

Washington Department of Fish and Wildlife

- Hydraulic Project Approval (if project will use, divert, obstruct or change the natural flow or bed of any fresh or salt water of the state).

Washington Department of Ecology

- Section 401 Water Quality Certification (Corps of Engineers Nationwide Permit, FERC Hydropower license, and Corps of Engineers Individual Permit)
- Approval to Allow Temporary Exceeding of Water Quality Standards (if project will create a temporary exceeding of water quality criteria established by the state for in-water work, e.g., changes in turbidity from sediment disturbances and pH changes from concrete curing)

Washington Department of Natural Resources

- Aquatic Resources Use Authorization Notification (if project is on, crosses, or impacts the shorelands of a navigable water)

U.S. Army Corps of Engineers

- Section 404 Permit (if project involves a discharge or excavation of dredged or fill materials waterward of OHWM, in waters of the United States, including wetlands)

JARPA enables the applicant to fill out a single application packet that he or she can then forward to other agencies with jurisdiction over the development proposal. Use of the JARPA will simplify the application and review process for both the applicant and the project reviewer. The applicant will have only one application form to complete, and the various agency reviewers will receive the information they need to perform the review, and will know that the information provided to other agencies was consistent with what they received.

Other activities that could occur along the shoreline (starting bonfires, disposing or spilling/releasing of regulated or hazardous waste products, use of pesticides, activities within wetlands) may require other permits, review, or approval not identified here.

At the time of an initial inquiry or when a permit application is submitted, the City Shoreline Administrator will inform an applicant, to the best of the administrator's knowledge, of any additional regulations and statutes that may apply to the proposed project. The final responsibility for complying with such other statutes and regulations, however, shall rest with the applicant. A list of agencies, departments and phone numbers is provided in the Chapter 10 of this SMP. Questions about permits, licenses, or review may be directed to the Permit Assistance Center of the Washington Department of Ecology.

1.6 ORGANIZATION OF THIS SHORELINE MASTER PROGRAM

This Master Program is divided into thirteen Chapters:

Chapter 1: *Introduction* provides general background information on the state Shoreline Management Act; the development of the Shoreline Master Program in Skykomish; the Shoreline Jurisdiction; the purpose of the Shoreline Master Program; a general discussion of when and how a shoreline master program is used and how the shoreline permitting process and the State Environmental Policy Act process are related and conducted; and a list of other permits and review for shoreline activities that may also apply for activities within the shoreline area.

Chapter 2: *Definitions* provides definitions for terms found in this document.

Chapter 3: Shoreline Management Goals lists the general goals which guide the policies and regulations found in the Skykomish Shoreline Master Program.

Chapter 4: Shoreline Environment Designation describes each environment along the Town of Skykomish shoreline and identifies designation criteria, management policies and designates specific areas of the shoreline jurisdiction for each environment.

Chapter 5: Shoreline General Policies & Regulations addresses the policies and regulations that apply to all uses, developments, and activities in all shoreline environments of the shoreline jurisdiction. These regulations are intended to be used in conjunction with the more specific use and activity policies and regulations in the Skykomish Shoreline Master Program. .

Chapter 6: Shoreline Use Policies & Regulations provides policies and regulations for only specific uses and activities in shoreline areas. These regulations set physical development and management standards for development of each type of use.

Chapter 7: Shoreline Modification Policies & Regulations addresses activities that modify the physical configuration or qualities of the shoreline area. These

activities are undertaken in support of or in preparation for a permitted shoreline use. Typically, shoreline modification activities are related to construction of a physical element such as a dike, dredged basins, or fill,

Chapter 8: Shoreline Use & Activity Table summarizes the regulations and provide use related development standards such as setbacks and building height limits..

Chapter 9: Administration provides the system by which the Skykomish Shoreline Master Program will be administered, and provides specific information on the application process and criteria used in evaluating requests for shoreline substantial development permits, conditional use permits, and variances.

Chapter 10: Restoration Plan

Appendix A:Federal and State Agency Contacts useful in administering shoreline permits.

Appendix B : Cumulative Impacts Analysis

Appendix C : Map Folio

1.7 RELATIONSHIP OF THIS SHORELINE MASTER PROGRAM TO OTHER PLANS

In addition to compliance with the provisions of the Shoreline Management Act of 1971, the Skykomish Shoreline Master Program must be consistent with local plans and policy documents, specifically, the Skykomish Comprehensive Plan and the Town's Critical Areas Ordinance. The Town's Shoreline Master Program must also be consistent with the regulations developed by the Town to implement its plans, such as the zoning code, as well as regulations relating to building construction and safety.

Submitting to the permitting process for a shoreline development or use does not exempt an applicant from complying with any other local, county, state, regional or federal statutes or regulations which may also be applicable to such development or use. Examples of activities that may require permits, review, or approval from other agencies are listed in the following table. Some of the activities for which these permits are required may not likely occur within the Town of Skykomish. The following list of permits is provided, however, as additional information about regulatory requirements that exist for various land use activities that may occur in the Skykomish area.

Agency	*Authority/Jurisdiction*	*Types of Activity Requiring Permit*	*Permit*
Army Corps of Engineers	Sect. 404 of Clean Waters Act. Jurisdiction extends to Ordinary High Water Mark of all waters of the US and includes all adjacent wetlands	Discharge of dredged materials, fills, grading, ditch sidecasting, groins, road fills, beach nourishment, riprap, jetties, etc.	Section 404 Permit (some limited activities are covered by nationwide general permits)
Federal Emergency Management Agency (FEMA)	CFR 44, Part 60 This Ordinance applies to the areas designated as flood zones on FEMA's Federal Insurance Rate Map. The adopted FEMA ordinance enables Town residents to acquire federal flood insurance and permits Skykomish to be eligible to receive Federal Flood Disaster Funds.	All construction within and uses of the Floodplain must meet the standards established in the Skykomish Flood Damage Reduction Ordinance (#255.)	Review for compliance with FEMA guidelines is conducted through enforcement of the Skykomish Flood Damage Prevention Ordinance.
Washington Department of Agriculture	Varies	Use of pesticides by any means other than hand pumped device - varied restrictions apply depending on the ownership of the property receiving the pesticide, the type of pesticide, etc.	Varies
Washington State Department of Fish and Wildlife (DFW)	RCW 75.20.100-160. All fresh or salt water in the state	Work, construction, development or other activities that will change the natural flow or bed of any fresh or salt water in the state.	Hydraulic Project Approval (HPA)
Washington State Department of Natural Resources (DNR)	RCW 76.09. Waterbodies near forest activities	Forest activities relating to growing, harvesting or processing timber, road construction and maintenance, brush clearing, slash disposal	Forest Practice Approval
Washington State Department of Ecology (DOE)	Section 401, Clean Water Act	Any activity that might result in a discharge of dredge or fill material into water or wetlands, or excavation in water or wetlands that requires a federal permit.	Water Quality Certification
	RCW 90 (various chapters)	Withdrawal of surface or ground water.	Water Use Permit; Certificate of Water Right

Agency	*Authority/Jurisdiction*	*Types of Activity Requiring Permit*	*Permit*
	RCW 43.21C Determined by the scope of the project. See also: Town of Skykomish, SEPA.	SEPA is a process that provides a way to analyze and address the environmental impacts of a project and is geared to mesh with already existing permits, approvals, and/or licenses.	State Environmental Policy Act (SEPA) Review
DOE (continued)	Water Pollution Control Act (RCW 90.48)	Act prohibits discharges of polluting matter to any waters of the state, including wetlands. A permit is required for any project potentially impacting state waters.	Various permits, including NPDES, Municipal Wastewater, and Septic permits.
Town of Skykomish	Chapter 16.20 Shoreline Master Program, Skykomish Municipal Code	Chapter 4 SMP environmental designation Chapters 5 – 7 Shoreline policies and regulations Chapter 8 Shoreline Use & Activity Table	Shoreline Substantial Development Permit Shoreline Conditional Use Permit Shoreline Variance
	Chapter 15.05 Code Adoption, Skykomish Municipal Code	Construction, alteration, moving, demolition, repair, maintenance and use of building or structure (exception exceptions)	Building Permit
	Chapter 16.10 Flood Damage Prevention, Skykomish Municipal Code	All development activity, including buildings, mining, filling, dredging, grading, paving, excavations, drilling operations, and storage of equipment or materials.	Floodplain Development Permit - review for compliance with this ordinance is conducted as a part of the development review and building permit process.
	Title 18 Zoning, Skykomish Municipal Code Code Chapter 16.15 Critical Areas, Skykomish Municipal Code Code	See Zoning Code Any development	Variance Conditional Use Zone Change Varies

Agency	*Authority/Jurisdiction*	*Types of Activity Requiring Permit*	*Permit*
	Chapter 16.05 State Environmental Policy Act, Skykomish Municipal Code	All activity meeting the threshold identified in RCW 43.21C and WAC Chapter 197-11.	State Environmental Policy Act (SEPA) Review

1.8 TITLE

This document shall be known and may be cited as the Skykomish Shoreline Master Program and may be abbreviated as "SMP". This document may refer to itself as "this master Program".

2 DEFINITIONS

Accessory use* or *Accessory structure – Any structure or portion of a structure or use incidental and subordinate to the primary use or development.

Accretion – The growth of a beach by the addition of material transported by wind and/or water. Included are such shoreforms as barrier beaches, points, spits, hooks and tombolos.

Act – *The Washington State Shoreline Management Act,* chapter 90.58 RCW.

Adjacent lands – Lands adjacent to the shorelines of the state (outside of shoreline jurisdiction). The SMA directs local governments to develop land use controls (i.e., zoning, comprehensive planning) for such lands consistent with the policies of the SMA, related rules and the local shoreline master program (see Chapter 90.58.340 RCW).

Administrator – The Town Planner or his/her designee, charged with the responsibility of administering the shoreline master program.

Agriculture – The cultivation of the soil, production of crops and/or raising of livestock, including incidental preparation of these products for human use. In Skykomish, noncommercial, small-scale individual or community gardening and the keeping of livestock are not considered agriculture.

Anadromous fish – Species such as salmon which are born in fresh water, spend a large part of their lives in the sea, and return to freshwater rivers and streams to procreate.

Appurtenance – A structure or development which is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and of the perimeter of any marsh, bog or swamp. On a statewide basis, normal appurtenances include garages, decks, driveways, utilities, fences and grading that does not exceed two hundred fifty (250) cubic yards, except to construct a conventional drainfield (see WAC 173-27-040(2g)).

Aquaculture – The commercial cultivation of fish, shellfish and/or other aquatic animals or plants, including the incidental preparation of these products for human use.

Archaeological – Having to do with the scientific study of material remains of past human life and activity.

Architectural standards – Rules, regulations or guidelines relating to the design, size, configuration or location of buildings and structures including setbacks and height and bulk restrictions. These may include other structural design or configuration conditions required as part of a variance or conditional use permit intended to improve the compatibility between adjacent structures, activities or uses.

Automobile wrecking – The dismantling or wrecking of motor vehicles or trailers or the storage, sale or dumping of dismantled, partially obsolete or wrecked vehicles or their parts.

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 ordinary high water. 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 (WAC 173-27-030(3)).*

Base flood – *A flood event, also referred to as the 100-year flood, having a one percent (1%) chance of being equaled or exceeded in any given year. Designations of base flood areas on flood insurance map(s) always include the letters A or V.*

BMPs – *see* ***Best Management Practices.***

Beach – The zone of unconsolidated material extending landward to the coastline that is moved by waves, wind and tidal currents.

Beach enhancement **or** ***Beach restoration*** – The process of restoring a beach to a state more closely resembling a natural beach.

Beach nourishment –The controlled placement on the beach of sand or gravel to augment inadequate sediment input by natural erosion processes or to mitigate for the adverse impacts of shoreline erosion control measures.

Benthos – Living organisms, commonly an assemblage of insects, worms, algae, plants and bacteria, associated with the bottom layer of aquatic systems at the interface of the sediment (or substrate) and overlying water column.

Best Management Practices (BMPs) – Methods of improving water quality that can have a great effect when applied by numerous individuals. BMPs encompass a variety of behavioral, procedural and structural measures to reduce the amount of contaminants in stormwater runoff and receiving waters.

Bioengineering – See ***Soil bioengineering***.

Biota – The animals and plants that live in a particular location or region.

Buffer– A parcel or strip of land that is designed and designated to remain permanently vegetated in an undisturbed and natural condition to protect an adjacent aquatic or wetland site from upland impacts, to provide habitat for wildlife and to afford limited public access.

Building height – See the Town of Skykomish Ordinance #235 (Zoning Code) for the definition of building height used in this document.

Bulkhead – A vertical wall constructed of rock, concrete, timber, sheet steel, gabions or patent system materials. Bulkheads are generally placed parallel to and near the ordinary high water mark to retain an upland or fill area prone to gliding or sheet erosion and to protect an upland from erosion by wave action. Rock bulkheads are often termed

vertical rock walls and are similar to structures termed "revetments." Seawalls are similar to bulkheads but more robustly constructed. See *Figures 2-1* and *2-2*.

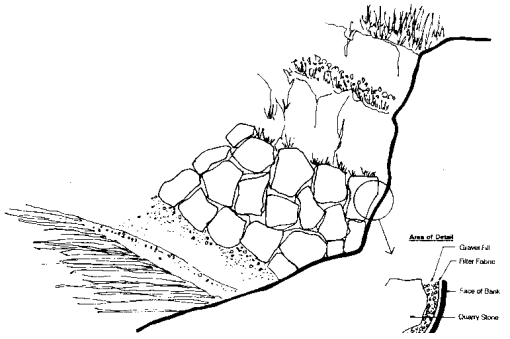

Figure 2-1: Typical Rock Bulkhead

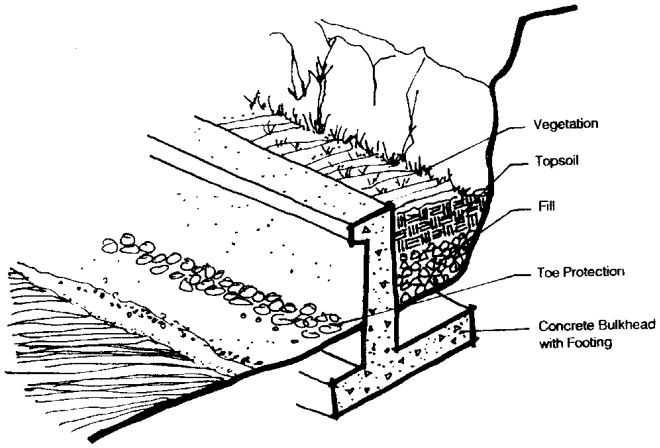

Figure 2-2: Typical Concrete Bulkhead

CFR – Code of Federal Regulations.

Channel Migration Zone (CMZ) – The area along a river within which the channel(s) can be reasonably predicted to migrate over time as a result of natural and normally occurring hydrological and related processes when considered with the characteristics of the river and its surroundings. A potential CMZ in Skykomish has been identified based on data, maps and reporting from the Department of Ecology.

Clean Water Act – The primary federal law providing water pollution prevention and control, previously known as the Federal Water Pollution Control Act. See 33 USC 1251 et seq.

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

Commercial – Uses and facilities that are involved in wholesale or retail trade or business activities.

Conditional use – A use, development or substantial development which may be allowed only if that use on a particular site does not introduce incompatible, detrimental, or hazardous conditions. Conditional uses include those uses not classified within this master program.

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

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Reviewer note for Skykomish: This change is optional.

Development regulations – The controls placed on development or land use activities by a county or city, including but not limited to zoning ordinances, critical areas ordinances, all portions of a shoreline master program 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.

Development standards – Specific requirements placed on development that are generally included as part of development regulations, including but not limited to building height limits, shoreline setbacks and sewer requirements.

Commented [BHC6]: Added for clarity

Dredge spoil **or** ***Dredge material*** – The material removed by dredging.

Dredging – Excavation or displacement of the bottom or shoreline of a water body. Dredging can be accomplished with mechanical or hydraulic machines. Most dredging is done to maintain channel depths or berths for navigational purposes; other dredging is for flood hazard reduction, water intake maintenance or cleanup of polluted sediments.

Enhancement – Alteration of an existing resource to improve or increase its characteristics and processes without degrading other existing functions. Enhancements are to be distinguished from resource creation or restoration projects.

Environmental Impact Statement (EIS) – A document that discusses proposed actions, alternatives and impacts.

Erosion – The wearing away of land by the action of natural forces.

Excavation – The artificial movement of earth materials.

Exemption - Authorization from local government which establishes that an activity is exempt from substantial development permit requirements while remaining subject to regulations of the Act and the local master program.

Fair market value – The open market bid price for conducting the work, using the equipment and facilities and purchasing the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment or materials (WAC 173-27-030(8)).

Fill – The placement of soil, sand, rock, gravel, existing sediment, earth-retaining structure or other material (excluding solid waste) to create new land, tideland or bottom land along the shoreline waterward of the ordinary high water mark or on wetland or upland areas in order to raise the elevation.

Fish habitat – Habitat used by fish at any life stage at any time of the year, including potential habitat likely to be used by fish that could be recovered by restoration or management, including off-channel habitat.

Float – A floating structure that is moored, anchored, or otherwise secured in the water off-shore and that is generally used for recreational purposes such as swimming and diving.

Floodplain – Synonymous with 100-year floodplain; the land area susceptible to being inundated by stream derived waters with a one percent (1%) chance of being equaled or exceeded in any given year. The limits of this area shall be determined by reference to the Flood Insurance Rate Maps (FIRM) prepared by the Federal Emergency Management Agency (FEMA).

Floodway –The area, as identified in a master program, that has been established in effective Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) or floodway maps. The floodway does not include 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.

Commented [BHC7]: ECOLOGY REVIEW EDITS, Feb 13, 2019
Checklist 2007. – Optional edits provided by Ecology guidance on 2007 Legislature clarification of definition of "floodway"

Forest practices – Activities conducted on or directly related to forest land and relating to growing, harvesting or processing timber. These activities include but are not limited to road and trail construction, final and intermediate harvesting, precommercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees and brush control. See WAC 222-16-010(21).

Frequently flooded areas – Lands in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation functions, as determined by the ~~[director]~~Administrator in accordance with WAC 365-190-080(3). Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property. Classifications of frequently flooded areas include, at a minimum, the 100-year

floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program.

Functions and values – The beneficial roles served by critical areas including but not limited to water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; ground water recharge and discharge; erosion control; wave attenuation; protection from hazards; historical, archaeological, and aesthetic value protection; educational opportunities; and recreation. These beneficial roles are not listed in order of priority. Critical area functions can be used to help set targets (e.g., species composition or structure) for managed areas, including mitigation sites.

Gabions – Structures composed of masses of rocks, rubble or masonry held tightly together, usually by wire mesh, to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.

Grading – The physical manipulation of the earth's surface and/or drainage pattern in preparation for an intended use or activity.

Groin – A barrier-type structure extending from, and usually perpendicular to, the backshore into a water body. Its purpose is to protect a shoreline and adjacent upland by influencing the movement of water and/or deposition of materials by building or preserving an accretion beach on its updrift side by trapping littoral drift. A groin is relatively narrow in width but varies greatly in length, is sometimes built in a series as a system and may be permeable or impermeable, high or low and fixed or adjustable. See also ***Rock weir.***

Hydraulic Project Approval (HPA) – The permit issued by the Washington State Departments of Fisheries and Wildlife pursuant to the State Hydraulic Code Chapter 75.20.100-140 RCW.

Habitat – The place or type of site where a plant or animal naturally or normally lives and grows.

Height – The distance measured from the average grade level to the highest point of a structure, *provided* that television antennas, chimneys and similar appurtenances shall not be used in calculating height, except where it obstructs the view of a substantial number of residences on areas adjoining such shorelines; *provided* further that temporary construction equipment is excluded from this calculation (WAC 173-27-030(9)). See also ***Building height***.

High intensity land use – Land uses associated with high levels of human disturbance or substantial habitat impacts, including but not limited to medium- and high-density residential (more than one home per five acres), multifamily residential, some agricultural practices and commercial and industrial land uses.

Hyporheic zone – The saturated zone located beneath and adjacent to streams that contains some portion of surface waters, serves as a filter for nutrients, and maintains water quality.

Impervious surface – A hard surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development or that causes water to

run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include but are not limited to rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials and oiled macadam or other surfaces which similarly impede the natural infiltration of stormwater.

In-kind replacement – To replace wetlands, streams, habitat, biota or other organisms with substitute flora or fauna whose characteristics closely match those destroyed, displaced or degraded by an activity.

Inter-rill – Areas subject to sheet wash.

Levee – A large dike or embankment, often having an access road along the top, which is designed as part of a system to protect land from floods.

Marina – A facility that provides launching, storage, supplies, moorage and other accessory services for six or more pleasure boats and/or commercial watercraft.

Marshes – Soft, wet areas periodically or continuously flooded to a shallow depth, usually characterized by the monocotyledon subclass of grasses, cattails and other low plants.

Mitigation ~~or Mitigation sequence~~ – The process of avoiding, reducing or compensating for the environmental impact(s) of a proposal. ~~(see WAC 197-11-768). The following is a list of mitigation techniques listed in order of preference, with "1" being the most preferred:~~

~~1. Avoiding the impact altogether by not taking a certain action or parts of an action;~~

~~2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;~~

~~3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;~~

~~4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;~~

~~5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments; and~~

~~6.~~1. ~~Monitoring the impact and the compensation project and taking appropriate corrective measures.~~

Moorage – Any device or structure, such as a pier or buoy, which is used to secure a vessel for temporary anchorage but is not attached to the vessel.

Commented [BHC8]: ECOLOGY REVIEW COMMENT, Feb 13, 2019
Remove from definitions section and include as an explicitly stated regulatory provision.

Text moved to Chapter 5.2, *General Regulations*

Multifamily dwelling **or *Multifamily residence*** – A building containing two or more dwelling units, including but not limited to duplexes, apartments and condominiums.

Native plants – Plants that occur naturally and that distribute and reproduce without aid. Native plants in western Washington are those that existed prior to the intensive settlement that began in the 1850s.

Nonconforming development – A shoreline use or structure which was lawfully constructed or established prior to the effective date of the Act or the Master Program, or amendments thereto, but which does not conform to present regulations or standards of the program or policies of the SMA. (See Chapter ~~96~~: Administration.)

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Non-water-oriented uses – Those uses which have little or no relationship to the shoreline and are not considered priority uses under the SMA. Any use which does not meet the definition of water-dependent, water-related or water-enjoyment is classified as non-water-oriented. Examples include professional offices, automobile sales or repair shops, mini-storage facilities, department stores and gas stations. See also ***Water-enjoyment***, ***Water-related***, and ***Water-oriented***.

Ordinary High Water Mark (OHWM) – That mark on all streams that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department; *provided* that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water. See RCW 90.58.030(2)(b) and WAC 173-22-030(11).

Permit – Any form of permission required under the Shoreline Management Act (Chapter 90.58 RCW) prior to undertaking activity on shorelines of the state, including substantial development permits, variances, conditional use permits, permits for oil or natural gas exploration activities, shoreline exemptions and permission that may be required for selective commercial timber harvesting.

Pier – A fixed pile-supported structure.

Priority habitat – A habitat type with unique or significant value to many species. A priority habitat may be described by specific habitat features including unique vegetation type or dominant plant species which are of primary importance to fish and wildlife. It may also be described by successional stage such as old-growth or mature forest.

Priority species – Fish and wildlife species requiring protective measures and/or management actions to ensure their survival.

Public interest – The interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety or general welfare resulting from a use or development (WAC 173-27-030(14)).

Public trust doctrine – That body of case law addressing the public's rights, duties and interests in water areas including navigation, commerce, environmental quality, fish and wildlife and recreation.

Qualified professional – A person with experience and training in the pertinent scientific discipline and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905(4). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or a related field and two years of related work experience.

A. A qualified professional for habitats or wetlands must have a degree in biology and professional experience related to the subject species.

B. A qualified professional for a geological hazard must be a professional engineer or geologist licensed in the state of Washington.

C. A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer or other scientist with experience in preparing hydrogeologic assessments.

RCW – Revised Code of Washington.

RCW 90.58 – The Shoreline Management Act of 1971.

Recreational vehicle – See ***Travel trailer.***

Residential development – Development which is primarily devoted to or designed for use as a dwelling(s).

Restoration, Restore, 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.

Revetment – Erosion protection measures constructed on a slope, normally in the range of 1.5:1 to 2:1 (horizontal: vertical). Construction materials may be rock riprap, gabions, interlocking concrete parent units or similar materials.

Riparian – Of, on or pertaining to the banks of a river.

Riprap – A layer, facing or protective mound of stones placed to prevent erosion, scour or sloughing of a structure or embankment; also, the stone so used.

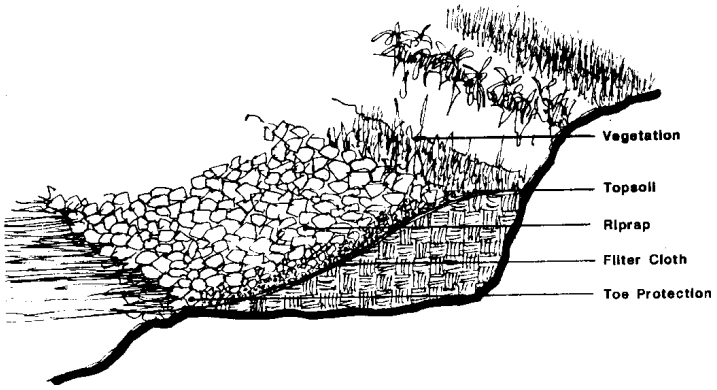

Figure 2-3: Example design criteria for riprap revetments

Rock weir – A structure made of loose rock that is designed to control sediment movement, water flow or both. A rock weir adjacent to a shoreline is typically formed by placing rock in a line outward from the shore, with the top of the rock embankment below the water level to restrict current movements parallel to the shore without completely blocking flow. See also ***Groin.***

Rotovating – An aquatic vegetation harvesting technique that uses rototilling technology to uproot and remove plants.

Runoff – Water that is not absorbed into the soil but rather flows along the ground surface following the topography.

Salmonid – A member of the fish family Salmonidae. In King County these include Chinook, coho, chum, sockeye and pink salmon; rainbow, steelhead, cutthroat, and brown trout; trout; brook and Dolly Varden char; kokanee; and whitefish.

SEPA – see ***State Environmental Policy Act.***

SEPA checklist – A checklist is required of some projects under SEPA to identify the probable significant adverse impacts on the quality of the environment. The checklist will also help to reduce or avoid impacts from a proposal and help the responsible governmental agency decide whether a full environmental impact statement (EIS) is required (WAC 197-11-960).

Salmon and steelhead habitats – Gravel-bottomed streams, creeks and rivers used for spawning; streams, creeks, rivers, side channels, ponds, lakes and wetlands used for rearing, feeding, adult residency, cover and refuge from predators and high water; streams, creeks, lakes, rivers, estuaries and shallow areas of saltwater bodies used as migration corridors; and salt water bodies used for rearing, feeding, adult residency and refuge from predators and currents.

Seawall – A structure, generally more massive and capable of resisting greater wave forces than a bulkhead, separating land and water areas primarily to prevent erosion and other damage by wave action.

Sediment – The fine grained material deposited by water or wind.

Setback – A required open space, specified in shoreline master programs, measured horizontally upland from and perpendicular to the ordinary high water mark.

Shall – "Shall" indicates a mandate; the particular action must be done.

Shoreline jurisdiction – The term describing all the geographic areas covered by the SMA, related rules and the applicable master program and such areas within a specified local government's authority under the SMA. See definitions of ***Shorelines***, ***Shorelines of the state***, ***Shorelines of statewide significance*** and ***Wetlands***.

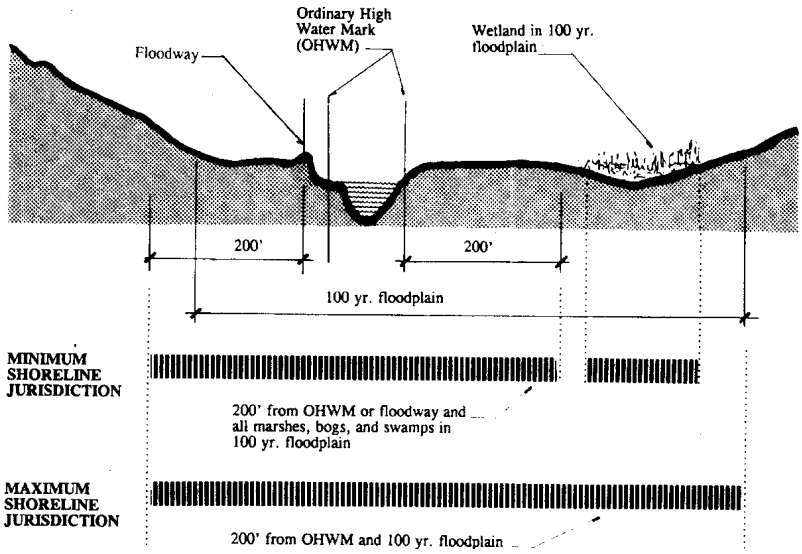

Figure 2-4: Cross Section of Shoreline Management Act Jurisdiction - River Shorelines

Shoreline Management Act – Chapter 90.58 RCW, as amended.

Shoreline Master Program (SMP) – The comprehensive use plan and related use regulations, together with maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. The SMP is used by local governments to administer and enforce the permit system for shoreline management. Master programs must be

developed in accordance with the policies of the SMA, be approved and adopted by the state, and be consistent with the rules (WACs) adopted by Ecology.

As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's comprehensive plan. All other portions of the shoreline master program for a county or city adopted under Chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

Shoreline modification – Physical construction on or alteration to a shoreline area. Examples of shoreline modifications include piers, docks, jetties, bulkheads, riprap, beach enhancement and modifications to riparian and wetland areas.

Shoreline permit – A substantial development, conditional use, revision, or variance permit or any combination thereof (WAC 173-27-030(13)).

Shoreline Substantial Development Permit (SSDP) – The permit required under the Shoreline Management Act and this Master Program if the development proposed is a "substantial development."

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 twenty (20) cubic feet per second or less, and the wetlands associated with such upstream segments; and (c) shorelines on lakes less than twenty (20) acres in size and wetlands associated with such small lakes (see RCW 90.58.030(2)(d) and WAC 173-18, 173-19 and 173-22).

Shorelines Hearings Board – A six-member state-level quasi-judicial body, created by the SMA, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government on Ecology approval of master programs, rules, regulations, guidelines or designations under the SMA. See RCW 90.58.170; 90.58.180; and WAC 173-27-220; 173-27-290.

Shorelines of statewide significance – A select category of shorelines of the state, defined in RCW 90.58.030(2)(e), where special preservationist policies apply and where greater planning authority is granted by the SMA; the Skykomish River is identified as a shoreline of statewide significance. Permit review must acknowledge the use priorities for these areas established by the SMA. See RCW 90.58.020.

Shorelines of the state – The total of all shorelines, including shorelines of statewide significance.

Should – The particular action is required, unless there is a compelling reason against it.

Single-family residence – A detached dwelling designed for and occupied by one family, including those structures and developments within a contiguous ownership which are a normal appurtenance (WAC 173-27-040(2g)).

Slope – The rise in elevation divided by the horizontal distance expressed as a percentage. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of elevation change.

SMA – see ***Shoreline Management Act. SMP*** – see ***Shoreline Master Program.***

Soil bioengineering – An applied science that combines structural, biological and ecological concepts to construct living structures that stabilize the soil to control erosion, sedimentation and flooding using live plant materials as a main structural component.

Solid waste – All putrescible and nonputrescible solid and semisolid wastes, including garbage, rubbish, ashes, industrial wastes, wood wastes and sort yard wastes associated with commercial logging activities, swill, demolition and construction wastes, abandoned vehicles and parts of vehicles, household appliances and other discarded commodities. Solid waste does not include sewage, dredge material or agricultural or other commercial logging wastes not specifically listed above.

Solid waste disposal – The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid or hazardous waste on any land area on or in the water.

State Environmental Policy Act, (SEPA) – SEPA requires state agencies, local governments and other lead agencies to consider environmental factors when making most types of permit decisions, especially for development proposals of a significant scale. The SEPA process may require the preparation of an EIS and the solicitation of public comments.

Stream – According to the Shoreline Management Act, a stream for which the SMA has jurisdiction is defined as a naturally occurring body of periodic or continuously flowing water where: a) the mean annual flow is greater than twenty (20) cubic feet per second and b) the water is contained within a channel (WAC 173-22-030(15)).

Structural erosion control* or *Hard erosion control – Measures which include revetments, bulkheads and seawalls, vertical rock walls, and similar facilities, constructed parallel to and near the ordinary high water mark for the purpose of protecting adjacent uplands from the erosive action of waves or currents.

Structure – A permanent or temporary edifice or building or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above or below the surface of the ground or water, except for vessels (WAC 173-27- 030(15)).

Substantial development – A substantial development is any "development" of which the total cost or fair market value exceeds ~~five thousand seven hundred eighteen~~seven thousand forty-seven dollars ($~~5,718~~7,047) or as adjusted by the state OFM, or any development which materially interferes with the normal public use of the water or shorelines of the state. (see 9.0~~6~~4.02 for additional information).

Travel trailer – A portable structure built on a chassis designed to be used as a temporary

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dwelling for travel, recreational and vacation use.

Upland – Generally described as the dry land area above and landward of the ordinary high water mark.

Variance – A means to grant relief from the specific bulk, dimensional or performance standards specified in the applicable master program, and not a means to vary the use of a shoreline. Variance permits must be specifically approved, approved with conditions, or denied by Ecology (See WAC 173-27-170).

Vegetative erosion control – Shoreline stabilization solely by erosion-resistant plantings, preferably of plant species native to the local area.

WAC – Washington Administrative Code.

Water-dependent – A use or a portion of a use which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include ship cargo terminal loading areas, ferry and passenger terminals, barge loading facilities, ship building and dry docking, marinas, aquaculture, float plane facilities and sewer outfalls. See also ***Water-enjoyment***, ***Water-related***, ***Water-oriented*** and ***Non-water oriented***.

Water-enjoyment – A recreational use or other use facilitating 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 the 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 foster shoreline enjoyment. Primary water-enjoyment uses may include but are not limited to parks, piers and other improvements facilitating public access to shorelines of the state. General water-enjoyment uses may include but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, resorts and mixed-use commercial, *provided* that such uses conform to the above water-enjoyment specifications and the provisions of the master program. See also ***Water-dependent***, ***Water-related***, ***Water-oriented,*** and ***Non-water-oriented***.

Water-oriented – Any combination of water-dependent, water-related, and/or water-enjoyment uses; an all-encompassing definition for priority uses under the SMA**.** See also ***Water-dependent, Water-enjoyment***, ***Water-related***, and ***Non-water oriented***.

Water-related – A use or a 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. of 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 commercial activities and the proximity of the use to its customers makes its services less expensive and/or more convenient. Examples include manufacturers of ship parts

   large enough that transportation becomes a significant factor in the products cost, professional services serving primarily water-dependent activities and storage of water-transported foods. Examples of water-related uses may include warehousing of goods transported by water, seafood processing plants, hydroelectric generating plants, gravel storage when transported by barge, oil refineries where transport is by tanker and log storage.

See also ***Water-dependent, Water-enjoyment***, ***Water-oriented***, and ***Non-water oriented***.

Wetlands* or *Wetland areas – Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas (See RCW 90.58.030(2)(h) and WAC 173-22-030(19)).

Zoning – To designate by ordinance, including maps, areas of land reserved and regulated for specific ***land*** uses.

3 SHORELINE MANAGEMENT GOALS

3.1 INTRODUCTION

Eight preliminary shoreline management goals relating to program elements specified in RCW 90.58.100 have been identified for the Town of Skykomish. These goal statements address the following shoreline elements: *Shoreline Use, Circulation, Public Access, Recreation, Conservation, Historic/Cultural Resources, Economic Development* and *Flood Hazard Management*. These goals establish the basis from which the environmental designations, policies, regulations, and administrative procedures of the Shoreline Master Program are developed.

3.2 SHORELINE USE ELEMENT

1. Preference in the shoreline jurisdiction is for "water-dependent," "water-related," and "water-enjoyment" uses.

2. Ensure that the land use patterns that result in shoreline areas are compatible with shoreline environment designations and will be sensitive to and not degrade habitat, ecological systems, and other shoreline resources.

3. Designated shorelines of statewide significance are of value to the entire state and should be protected and managed. In order of preference, the priorities are to:

    a. Recognize and protect the statewide interest over local interest;

    b. Preserve the natural character of the shoreline;

    c. Result in long-term over short-term benefit;

    d. Protect the resources and ecology of shorelines

    e. Increase public access to publicly owned areas of the shorelines; and

    f. Increase recreational opportunities for the public in the shoreline.

4 Encourage restoration of shoreline areas that have been degraded or diminished in ecological value and function as a result of past activities or catastrophic events.

5. Ensure that planning, zoning and other regulatory and non-regulatory programs governing lands adjacent to shoreline jurisdiction are consistent with SMA policies and regulations and the provisions of this SMP.

3.3 CIRCULATION ELEMENT

1. Maintain safe, reasonable, and adequate vehicular, bicycle, and pedestrian circulation systems to shorelines and ensure that these routes will have the least possible adverse effect on unique or fragile shoreline features and existing

ecological systems, while contributing to the functional and visual enhancement of the shoreline.

3.4 PUBLIC ACCESS ELEMENT

1. Increase and enhance public access to shoreline areas for the public to enjoy the amenities of the shoreline, consistent with the natural shoreline character, private rights, and public safety.

2. Integrate public access to shorelines as a part of a public trail system through the Town of Skykomish and the region.

3.5 RECREATION ELEMENT

1. Encourage diverse, water-oriented recreational opportunities in those shoreline areas that can reasonably tolerate such uses during peak use periods without destroying the integrity and character of the shoreline.

3.6 CONSERVATION ELEMENT

1. Protect and preserve the unique and nonrenewable resources and amenities of the Skykomish shoreline for the use and enjoyment of present and future generations.

2. Reclaim and restore areas which are biologically and aesthetically degraded to the greatest extent feasible while maintaining appropriate use of the shoreline.

3.7 HISTORIC/CULTURAL RESOURCES ELEMENT

1. Identify, protect, preserve, and restore important archaeological, historical, and cultural sites located in the shorelands of Skykomish for their educational and scientific value, as well as for the recreational enjoyment of the general public.

2. Encourage educational projects and programs that foster a greater appreciation of the importance of shoreline management, environmental conservation, and the shoreline's role in community history.

3.8 ECONOMIC DEVELOPMENT ELEMENT

1. Ensure healthy, orderly economic growth by allowing those economic activities which will be an asset to the local economy and which result in the least possible adverse effect on the quality of the shoreline and surrounding environment.

2. Ensure that any economic activity taking place along the shoreline operates without harming the quality of the site's environment or adjacent shorelands.

3. Encourage new economic development to locate in areas already developed with similar uses which are consistent with this master program.

4. Before new commercial/industrial development is permitted within the shoreline, it is the proponent's responsibility to demonstrate that upland areas are not feasible for the intended economic activity.

5. Limit new shoreline industrial and commercial development to that which is classified as water-dependent, water-related, or water-enjoyment uses and discourage and/or prohibit non-water-oriented uses which are not accessory to a water-oriented use.

6. Proposed economic use of the shoreline should be consistent with local comprehensive plans. Conversely, upland uses on adjacent lands outside of immediate SMA jurisdiction (in accordance with RCW 90.58.340) should be consistent with the purpose and intent of this master program as they affect the shoreline.

3.9 FLOOD HAZARD MANAGEMENT ELEMENT

1. Support the goals and policies of the Skykomish Flood Hazard Reduction Ordinance No. 255 through this master program.

4 SHORELINE ENVIRONMENT DESIGNATIONS

4.1 INTRODUCTION

The state Shoreline Management Act requires that local jurisdictions categorize their shoreline areas on the basis of existing development pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community. The purpose of designating shoreline environments is to provide a uniform basis for applying policies and use regulations within different shoreline areas.

The shoreline area within the Town of Skykomish is defined as having five environments, *Aquatic, Natural, Urban Conservancy, Shoreline Residential*, and *High Intensity*, described below. Chapter 10 indicates how these management policies relate to the overall management of the shoreline environment in Skykomish.

4.2 AQUATIC ENVIRONMENT

The Aquatic environment is intended to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

4.2.1 Designation Criteria

Aquatic areas include all lands waterward of the ordinary high-water mark.

4.2.2 Management Policies

1. New over-water structures are only allowed for water dependent uses, public access, or ecological restoration.

2. The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.

3. In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities are encouraged.

4. Uses that adversely impact the ecological functions of critical freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201 (2)(e) as necessary to assure no net loss of ecological functions (see Chapter 2).

5. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

6. All developments and activities using navigable waters or their beds should be located and designed to minimize interference with surface navigation, to minimize adverse visual impacts and to allow for the safe, unobstructed passage of fish and animals, particularly those whose life cycles are dependent on such migration.

4.2.3 Aquatic Environment - The Skykomish Aquatic environment includes:

- the area of the Skykomish River and Maloney Creek within the Town of Skykomish from the ordinary high water mark (OHWM) on one side of each waterway to the OHWM on the opposite side of the waterway.

4.3 NATURAL ENVIRONMENT

The Natural environment is intended to preserve and restore those natural resource systems existing relatively free of human influence and those shoreline areas possessing natural characteristics intolerant of human use or unique historical, cultural or educational features. These systems require severe restrictions on the intensities and types of uses permitted so as to maintain the integrity of the shoreline environment.

4.3.1 Designation Criteria

Areas to be designated Natural should meet one or more of the following criteria:

1. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;

2. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or

3. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

4. Such shoreline areas that include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, and ecologically intact shoreline habitats.

4.3.2 Management Policies

1. Any use or development which would potentially degrade the natural value or significantly alter the natural character of the shoreline area should not be allowed.

2. Limited access should be permitted for scientific, historical, educational and low-intensity recreational purposes, provided that no significant adverse impact on the area will result.

3. The following new uses should not be allowed in the "natural" environment:

    - Commercial uses.
    - Industrial uses.
    - Non water-oriented recreation.
    - Roads, utility corridors, and parking areas that can be located outside of "natural" designated shorelines.

4. Single-family residential development may be allowed as a conditional use within the "natural" environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.

5. New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. The subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions is not allowed.

4.3.3 **Natural Environment** - The Skykomish Natural Environment includes:

- The area on the north side of the Skykomish River and just east of the Bridge from the unnamed creek to the west end of Sky Lane and from the OHWM of the Skykomish River to the north boundary of the floodway.

- the area of land between the OHWM of the Skykomish River and Highway 2, extending from the western town limits east to the previously developed portion of the property

- the area north of Highway 2, abutting the western city limits bounded by the Highway 2 and the north boundary of the Town's shoreline jurisdiction.

- from the eastern boundary of Skykomish, between the OHWM of the river to the north and the railroad right-of-way to the south and west to the beginning of the developed area;

4.4 URBAN CONSERVANCY ENVIRONMENT

The intent of the Urban Conservancy environment is to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. -

4.4.1 Designation Criteria

Areas to be designated Urban Conservancy should meet one or more of the following criteria:

1. Areas suitable for water-related or water-enjoyment uses;

2. Open space, flood plain or other sensitive areas that should not be more intensively developed;

3. The potential for ecological restoration;

4. The area retains important ecological functions, even though partially developed; or

5. They have the potential for development that is compatible with ecological restoration.

4.4.2 Management Policies

1. Uses that preserve the natural character of the area or promote preservation of open space, flood plain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

2. Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "urban conservancy" designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

3. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

4. Water-oriented uses should be given priority over non water-oriented uses.

5. Single-family residential development may be allowed as a conditional use within the "urban conservancy" environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.

6. Commercial and industrial uses should be prohibited.

4.4.3 Urban Conservancy Environment - The Skykomish Urban Conservancy environment extends:

- the area on either side of Maloney Creek from the town boundary on the south to the railroad right-of-way on the north and bounded on the east and west by the developed Shoreline Residential areas.

- the entire Town ball field and park located to the east of the Town between the Skykomish River and Highway 2.

- all areas within shoreline jurisdiction that are not mapped and/or designated are automatically designated urban conservancy until the shoreline can be re-designated through a master program amendment.

4.5 SHORELINE RESIDENTIAL ENVIRONMENT

The purpose of the "shoreline residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

4.5.1 Designation Criteria

Areas to be designated Shoreline Residential Environment are predominantly single-family or multifamily residential development or are planned and platted for residential development.

4.5.2 Management Policies

1. Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, considering the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

2. Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.

3. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

4. Commercial development should be limited to water-oriented uses.

4.5.3 Shoreline Residential Environment - The Skykomish Shoreline Residential Environment includes:

- the area west of Maloney Creek to the edge of the shoreline jurisdiction including the developed residential properties north and south of Old Cascade Highway;
- the residential developed portions of the area east of Maloney Creek;
- the residential developed areas between the OHWM of the river and the shoreline jurisdiction boundary, from the east end of Railroad Avenue to 4th Street, River Drive East and the Commercial zoned properties on the east side of 5th Street;
- the residential developed areas between the OHWM of the river and railroad right-of-way, west of 5th Street to the western town boundary, not including the properties along Railroad Avenue, east of the Town Community Center.
- the Sky Lane area north of the Skykomish River between the OHWM of the river and the shoreline jurisdiction boundary, from the town boundary of the east to the end of Sky Lane on the west

4.6 HIGH INTENSITY ENVIRONMENT

The purpose of the "high-intensity" environment is to provide for high-intensity and water-oriented commercial, and transportation uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

4.6.1 Designation Criteria

A "high-intensity" environment is for designating shoreline areas that currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

4.6.2 Management Policies

1. Uses in the "high-intensity" environment should be prioritized in the following order:

   - Water-dependent uses.
   - Water-related and water-enjoyment uses.
   - Non water-oriented uses only if part of mixed use developments.

   Non water-oriented uses may also be allowed in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline.

2. Single-family residential development may be allowed within the "high intensity" environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.

3. Multifamily residential and recreational developments should provide public access and joint use for community recreational facilities.

4. Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed.

5. New development shall result in no net loss of shoreline ecological functions. Environmental cleanup and restoration of the shoreline to comply with relevant state and federal laws.

6. Visual and physical public access should be required where feasible.

7. Aesthetic objectives should be implemented for sign control regulations, development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

4.6.3 High Intensity Environment - The Skykomish High Intensity Environment includes:

- the current rights of way owned by the State Highway Department along Highway 2 on the north side of the Skykomish River;

- all areas of the railroad right of way within the shoreline jurisdiction;

- the commercially developed areas around the intersection of 5th Street and Highway 2, north of the OHWM of the river and south of the Highway 2 right-of-way;

- the commercial area along River Drive East, Railroad Avenue and the east side of 5th Street.

- the area west of the Sky Lane development, to the commercial development at the intersection of 5th Street and US 2, north of the floodway.

4.7 SHORELINE ENVIRONMENT DESIGNATION MAP

Map 3 in the Shoreline Map Folio depicts the shoreline jurisdiction for the Town of Skykomish and the shoreline environment designations for those shorelines of the state contained within the Town.

5 SHORELINE GENERAL POLICIES & REGULATIONS

5.1 INTRODUCTION

Based upon the goals established in this Master Program (Chapter 3), the following policies and regulations apply to all uses, developments, and activities in the shoreline area of Skykomish.

The *General* policies and regulations apply to all uses and activities that may occur within the shoreline jurisdiction ***regardless of the SMP environment designation***. These policies and regulations provide the overall framework for the shoreline's management. These regulations are intended to be used in conjunction with the more specific use and activity policies and regulations in the Skykomish Shoreline Master Program. These categories of *General* policies and regulations include:

- **General Regulations**
- **Archaeological and Historic Resources**
- **Clearing and Grading**
- **Critical Areas**
  - **Wetlands**
  - **Frequently Flooded Areas**
  - **Geological Hazard Areas**
  - **Fish and wildlife habitat conservation areas**
- **Public Access**
- **Signage**
- **Vegetation Conservation**
- **View Protection**
- **Water Quality**

5.01.01 Potential Inconsistency Between Various Policies and Regulations

The regulations of this chapter are in addition to other adopted ordinances and rules. Where conflicts exist, that which provides more protection to the shoreline area shall apply. These interlocking development regulations are intended to make shoreline development responsive to specific design needs and opportunities along the Town's shorelines, and to protect the public's interest in the shorelines' recreational and aesthetic values.

5.2 GENERAL REGULATIONS

5.2.1 Applicability

The following general regulations are applicable to all uses and activities (regardless of Shoreline Master Program environment designation) that may occur along the Skykomish shorelines.

5.2.2 Regulations

1. New development shall result in no net loss of shoreline ecological functions. No net loss can be achieved by adhering to mitigation sequencing ~~as defined in Chapter 2~~ (see WAC 197-11-768). The following is a list of mitigation techniques listed in order of preference, with "a" being the most preferred.
   a. Avoid the impact altogether by not taking a certain action or parts of an action;
   b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
   c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
   d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
   e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
   ~~a.~~f. Monitoring the impact and taking appropriate corrective measures.

2. All shoreline uses, and shoreline modification activities, including those that do not require a shoreline substantial development permit, must conform to the intent, policies, and regulations of this Master Program, including *Shoreline Management Goals, Shoreline Environment Designation* provisions (including the environment designation map), all regulations including the *General Policies and Regulations*, *Specific Shoreline Use Policies and Regulations*, and *Shoreline Modification Policies and Regulations*.

3. All shoreline development shall be designed in accordance with all applicable federal, state and local management codes and regulations, including those administered or required by the Army Corps of Engineers, the Federal Emergency Management Agency, the U.S. Department of Agriculture, the State Department of Fisheries and Wildlife, the State Department of Ecology, the State Department of Agriculture, the State Environmental Policy Act, the Town's critical areas code (SMC 16.15), the Skykomish Comprehensive Plan, the Skykomish zoning regulations, and other applicable local land use codes and regulations.

4. Shoreline modification activities must be in support of an allowable shoreline use which conforms to the provisions of this master program. Except as otherwise noted, all shoreline modification activities not associated with a legally existing or an approved shoreline use are PROHIBITED.

5. Shoreline uses, modification activities, and conditions listed as "prohibited" shall not be eligible for consideration for a shoreline variance or shoreline conditional use permit.

6. Where provisions of this master program conflict, the more restrictive provisions shall apply unless specifically stated otherwise.

Commented [BHC12]: ECOLOGY REVIEW COMMENT, Feb 13, 2019
Mitigation sequencing moved to regulatory provision instead of in the definitions chapter.

5.3 ARCHAEOLOGICAL AND HISTORIC RESOURCES

5.3.1 Applicability

Archaeological and historic resources, because of their finite nature, are valuable links to the past and should be considered whenever a development is proposed along the state's shorelines. Where such resources are either recorded at the State Historic Preservation Office, King County Cultural Resources, and/or with the Town of Skykomish, or have been inadvertently uncovered, the following policies and regulations apply.

5.3.2 Policies

A. Due to the limited and irreplaceable nature of the resource, public or private uses and activities should be prevented from destroying or damaging any site having historic, cultural, scientific or educational value as identified by the appropriate authorities.

5.3.3 Regulations

1. All shoreline permits shall contain provisions which require developers to immediately stop work and notify the Town, the Office of Archaeology and Historic Preservation and affected Indian tribes if any phenomena of possible archaeological interest are uncovered during excavations.

2. In areas documented to contain archaeological resources, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data is properly salvaged in coordination with affected Indian tribes.

5.4 CLEARING AND GRADING

5.4.1 Applicability

Clearing and grading is the activity associated with developing property for a particular use including commercial, industrial, recreational, and residential. Specifically, "clearing" means the destruction or removal of vegetative ground cover and/or trees including, but not limited to, root material removal and/or topsoil removal. This includes such activities as clear-cutting or selective harvest of trees, chipping of stumps and hauling off of shrubs, slash piles, etc. "Grading" means the physical manipulation of the earth's surface and/or surface drainage pattern without significantly adding or removing on-site materials. This includes removing the duff layer, all surcharging, preloading and re- contouring the ground and may include minor excavation and filling. Landfill, the placement of dry fill on existing dry or existing wet areas, is a shoreline modification activity and is addressed in that portion of this chapter in the *Dredging and Landfill* section.

Both clearing and grading activities may cause erosion, siltation, increase runoff and flood volumes, reduce flood storage capacity, and damage habitat. Although clearing, when conducted above ground (e.g., with a saw or brush cutter), may not be considered, technically, the "development" which would trigger the need for a substantial development permit, clearing is an activity that impacts shoreline resources. Clearing that affects the removal of root material and topsoil may have significant impacts on the stream ecology, floodway capacity, and aesthetic values. For

this reason, clearing that approaches the definition of grading is, therefore, regulated in order to achieve the design goals and objectives of the SMA, particularly along Shorelines of Statewide Significance where preservation of natural shoreline characteristics take a very high priority. Grading is considered development and should be managed accordingly.

5.4.2 PERMIT EXEMPTION - Grading

For single family residences, a one-time exemption of two hundred and fifty (250) cubic yards of grading (in excess of the grading allowed for approved development of the house footprint and appurtenant structures) may be allowed without a substantial development permit, provided all policies and regulations of this master program are met.

5.4.3 Policies

A. All clearing and grading activities should be designed and conducted to minimize impacts to wildlife habitat, sedimentation of creeks, streams, ponds, lakes, wetlands and other water bodies, and to minimize degradation of water quality.

B. Clearing and grading activities in shoreline areas should be limited to the minimum necessary to accommodate shoreline development. Such activities should be discouraged in designated (structural) setback areas and allowed in other shoreline locations only when associated with a permitted shoreline development.

C. Adverse environmental and shoreline impacts of clearing and grading should be avoided wherever possible through proper site planning, construction timing and practices, bank stabilization, soil bioengineering and use of erosion and drainage control methods. Maintenance of drainage controls should be a high priority to ensure continuing, effective protection of habitat and water quality.

D. Cleared and disturbed sites remaining after completion of construction should be promptly replanted with native vegetation or with other species as approved by the Town.

E. All clearing and grading activities should be designed with the objective of maintaining natural diversity in vegetation species, age, and cover density.

F. For proposed land clearing, landfill, or grading activities over fifty (50) cubic yards in quantity, or a cut of three (3) feet or more, or a fill of two (2) feet or more, a clearing and grading plan addressing species removal, replanting, irrigation, erosion and sedimentation control and other methods of riparian corridor protection should be required.

5.4.4 Regulations

1. All clearing and grading activities shall be limited to the minimum necessary for the intended development, including residential development.

2. All clearing and grading activities must adhere to the requirements of the Town's code pertaining to land, clearing and grading.

3. Clearing and grading within designated shoreline setback areas shall not exceed the following maximums (all measurements taken parallel to the shoreline):

    a. Lots, parcels with shoreline frontage: up to fifteen percent (15%) of the shoreline frontage, with a maximum of thirty (30) feet.

    b. When applying the above clearing and grading standards the following plant communities shall determine in descending order of preference where clearing and grading may be allowed. The first plant community listed indicates the most preferred location for clearing and grading:

        i. grass;
        ii. shrub/scrub; and
        iii. forest.

4. Clearing and grading in excess of the maximums established in 3(a) shall require a conditional use permit.

5. Clearing and grading activities may only be allowed when associated with an allowed shoreline development and when in conformance with provisions of this master program (see also Vegetation Management, View Protection, and Public Access).

6. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not developed must be replanted with native species or other species as approved by the Town within one (1) year. Replanted areas shall be planned and maintained such that, within three (3) years' time, the vegetation is at least ninety (90) percent reestablished.

7. Normal nondestructive pruning and trimming of vegetation for maintenance purposes shall not be subject to these clearing and grading regulations (see discussion of Buffers in the 2016 Skykomish Critical Area Ordinance for description nondestructive pruning). In addition, clearing by hand held equipment of invasive non-native shoreline vegetation or plants listed on the State Noxious Weed List is permitted in shoreline locations.

8. Any significant placement of materials from off-site (other than surcharge or preload), or the substantial creation or raising of dry upland shall be considered landfill and shall also comply with the landfill provisions in this chapter.

Commented [BHC13]: Checklist 2016.b and 2011.a

5.5 ENVIRONMENTAL IMPACTS

5.5.1 Applicability

The Shoreline Management Act (SMA) is concerned with the environmental impacts that both a use and activity may have on the fragile shorelines of the state. Problems of degrading the shoreline and its waters with contaminants such as petroleum products, chemicals, metals, nutrients, solid or human waste, or soil sediments from erosion are all issues that are addressed.

5.5.2 Policies

A. The adverse impacts of shoreline uses and activities on the environment should be minimized during all phases of development (e.g., design, construction, management, and use).

5.5.3 Regulations

1. The location, design, construction and management of all shoreline uses and activities shall protect the quality and quantity of surface and ground water adjacent to the site and shall adhere to the guidelines, policies, standards and regulations of applicable water quality management programs and related regulatory agencies.

2. Solid waste, liquid waste, and untreated effluent shall not be allowed to enter any bodies of water or to be discharged onto the land.

3. The release of oil and hazardous materials or chemicals onto the land or into water is PROHIBITED. Equipment for the transportation, storage, handling or application of such materials shall be maintained in a safe and leakproof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected.

4. All shoreline uses and activities shall utilize best management practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff so that receiving water quality and shore properties and features are not adversely affected. Physical control measures include but are not limited to catch basins, settling ponds, oil/water separators, filtration systems, grassy swales, interceptor drains and landscaped buffers. All types of BMPs require regular maintenance to continue to function as intended.

5. All shoreline developments and uses shall utilize effective erosion control methods during both construction and operation.

6. All shoreline uses and activities shall be located, designed, constructed and managed to minimize adverse impacts to water quality and fish and wildlife resources, including spawning, nesting, rearing, feeding and habitat areas, and migratory routes.

7. All shoreline uses and activity shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and that is aesthetically compatible with the affected area.

8. All shoreline developments shall be located, constructed and operated so as not to be a hazard to public health and safety.

9. Land clearing, grading, filling and alteration of natural drainage features and land forms shall be limited to the minimum necessary for development. Surface drainage systems or substantial earth modifications involving greater than five hundred (500)

cubic yards of material shall be designed by a professional engineer. These designs shall seek to prevent maintenance problems and adverse impacts to adjacent properties or shoreline features.

10. All shoreline uses and activities shall be located and designed to prevent or minimize the need for shoreline defense (bulkheading, riprap, etc.) and stabilization, landfills, groins, jetties, or substantial site regrades.

11. Navigation channels shall be kept free of hazardous or obstructing uses and activities.

12. Herbicides and pesticides shall not be applied or allowed to directly enter water bodies or wetlands unless approved for such use by appropriate agencies (U.S. and State Departments of Agriculture, U.S. Environmental Protection Agency, Washington Department of Ecology).

5.6 CRITICAL AREAS – GENERAL PROVISIONS

Commented [BHC14]: BHC and Ecology Review Comment, Feb 14, 2019:
Once the Skykomish 2016 Critical Areas are adopted, duplicative and out of date language can be removed from this section through Section 5.10 for simplicity and clarity.

5.6.1 Applicability

Critical areas constitute the most environmentally fragile lands which support resources that are economically and culturally important to the state under the Shoreline Management Act. For example, they can be natural resources that provide fisheries habitat or areas that may threaten the health and safety of the public, such as floodways or unstable slopes.

Critical areas shall apply to the following:

- Wetlands,
- Areas with a critical recharging effect on aquifers used for potable waters;
- Fish and wildlife habitat conservation areas;
- Frequently flooded areas;
- Geologically hazardous areas

5.6.2 Policies

A. Unique, rare and fragile natural and man-made features as well as scenic vistas and wildlife habitats should be preserved and protected from unnecessary degradation or interference.

B. The level of public access should be appropriate to the degree of uniqueness or fragility of the geological and biological characteristics of the shoreline (e.g., wetlands, spawning areas).

C. Intensive development of shorelines areas that are identified as hazardous or environmentally sensitive to development should be discouraged.

D. Restoration of degraded ecological functions should be encouraged.

5.6.3 Regulations

1. Critical areas standards and regulations shall be based on best available science.

    a. Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to reasonably preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat.

    b. The best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific professional, or team of qualified scientific professionals that is consistent with criteria established in WAC 365-190-080 and WAC 365-195-900 through WAC 365-195-925, or as amended.

2. All shoreline uses and activities shall be located, designed, constructed and managed to result in no net loss of ecological functions, and to facilitate the appropriate intensity of human use of such features.

3. The approximate location and extent of critical areas may be shown on Town critical area maps and on maps prepared by county, state, federal and other agencies. These maps are to be used as a guide for the Town, project applicants and/or property owners, and may be continuously updated as new critical areas are identified. They are for reference only and do not provide a final critical areas designation. The applicant is responsible for determining the scope, extent and boundaries of any critical area to the satisfaction of the Town.

4. Critical Areas Review

    a. Following submittal of an application for development or use of land in the shoreline jurisdiction, the administrator shall review the application, site conditions, and other information available pertaining to the site and the proposal and make a determination as to whether any critical areas may be affected by the proposal.

    b. The property owner shall provide the Town with reasonable access to the site for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period.

    c. If the information available indicates that the project area is within a critical area or buffer, or that the proposed activity is likely to degrade a critical area or buffer, then the applicant shall be required to submit a critical areas report, prior to further review of the project.

5. Review Criteria

    a. Any permit or approval that includes an alteration to a critical area or its buffer must comply with all of the following criteria:

i. The proposal minimizes the impact on critical areas in accordance with Mitigation sequencing as defined in ~~Chapter 2~~Regulation 5.2.2.1;

ii. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

iii. The proposal is consistent with the general purposes of this SMP;

iv. Any alterations permitted to the critical area are mitigated in accordance with Mitigation Requirements shown below;

b. The applicant has the burden of proving that a proposal complies with the standards set forth in these regulations.

6. Critical Areas Report

a. The critical areas report shall use scientifically valid methods and studies in the analysis of critical areas data and field reconnaissance and reference the source of science used. The critical areas report shall evaluate the proposal and all probable impacts to critical areas. The critical areas report shall be prepared by a qualified professional.

b. At a minimum, the report shall contain the following:

i. The name and contact information of the applicant, the project area, a description of the proposal, and identification of the permit requested;

ii. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

iii. Identification and characterization of all critical areas and water bodies within three hundred (300) feet of the proposed project area;

iv. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

v. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

vi. An analysis of site development alternatives;

vii. A description of reasonable efforts made to avoid, minimize, and mitigate impacts to critical areas consistent with mitigation sequencing described in ~~Chapter 2~~ Regulation 5.2.2.1;

viii. Plans for adequate mitigation, as needed, to offset any impacts;

ix. A discussion of the performance standards applicable to the critical area and proposed activity;

Commented [BHC15]: ECOLOGY REVIEW COMMENT, Feb 13, 2019
Mitigation sequencing moved to regulatory provision instead of in the definitions chapter.

Commented [BHC16]: ECOLOGY REVIEW COMMENT, Feb 13, 2019
Mitigation sequencing moved to regulatory provision instead of in the definitions chapter.

x. Financial guarantees to ensure compliance; and

xi. Any additional information required for the critical area as specified in the corresponding chapter.

c. Unless otherwise provided, a critical areas report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Town.

d. The required geographic area of the critical areas report may be limited as appropriate if the proposed activity will affect only a limited part of the subject site and the activity is more than 300 feet from any critical area.

e. The Town may require additional information to be included in the critical areas report when determined to be necessary to the review of the proposed activity.

7. Mitigation Requirements

a. If alteration to the critical area or buffer is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated in accordance with an approved critical areas report.

b. Mitigation shall be sufficient to maintain the functions and values of the critical area, or off-site critical area mitigation and to prevent risk from a hazard posed by a critical area.

c. Mitigation shall be in accordance with the provisions of the approved critical areas report.

d. Where feasible, mitigation projects shall be completed prior to activities. Mitigation shall be completed immediately following disturbance as practicable and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to fish, wildlife and flora.

e. A one-time temporary delay, up to one-hundred-twenty (120) days, may authorize in completing minor construction and landscaping when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the mitigation plan. The justification must be verified and approved by the Town.

f. When mitigation is required, the applicant shall submit a mitigation plan, prepared by a qualified professional, as part of the critical areas report.

8. Mitigation plan.

   The mitigation plan shall include:

   a. Environmental goals and objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

      i. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

      ii. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

      iii. An analysis of the likelihood of success of the compensation project.

   b. Performance standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained.

   c. Detailed construction plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

      i. The proposed construction sequence, timing, and duration;

      ii. Grading and excavation details;

      iii. Erosion and sediment control features;

      iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

      v. Measures to protect and maintain plants until established.

   d. Written specifications shall be accompanied by detailed site diagrams, scaled cross sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

   e. Monitoring program. The mitigation plan shall include a program for monitoring construction of the compensation project, and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3 and 5 after site construction),

and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

f. Contingency plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

5.7 CRITICAL AREAS – WETLANDS

5.7.1 Applicability

"Wetlands" are areas that are inundated or saturated by surface 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 generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas to mitigate the conversion of wetlands.

5.7.2 Policies

A. Wetlands serve many important ecological and environmental functions, and help to protect public health, safety and welfare by providing flood storage and conveyance, erosion control, sediment control, fish and shellfish production, fish and wildlife habitat, recreation, water quality protection, water supply, education and scientific research. Wetland uses in the shoreline shall achieve, at a minimum, no net loss of wetland area and functions.

B. Wetland areas should be identified according to established identification and delineation procedures and afforded appropriate protection consistent with the policies and regulations of this master program.

C. All wetlands should be protected from alterations which adversely impact them so that there is no net loss of wetland acreage and functions. The greatest protection should be provided to wetlands of exceptional resource value, defined as those wetlands that include rare, sensitive or irreplaceable systems.

D. All activities which potentially affect wetland ecosystems should be controlled within both the wetland and the buffer zone to prevent adverse impacts.

E. No wetland alteration should be authorized unless it can be shown that the impact can be mitigated.

F. When wetlands are impacted, they should be replaced with the same or higher category of wetland.

G. Compensatory mitigation should be conducted on property which is protected and managed to avoid further loss or degradation. Provisions for long term preservation of the compensation area should be required.

H. Compensatory mitigation should follow an approved Mitigation Plan.

I. Enhancement of existing wetlands, other than Category I and Category II wetlands, may be considered for compensation.

J. Compensation should be completed prior to, or concurrently with, wetland loss.

5.7.3 Regulations

1. All development or activity including removing or disturbing soil, filling, changing the water level, placing obstructions, constructing a structure, destroying or altering vegetation or introducing pollutants within a wetland or its buffer shall, at a minimum, result in no net loss of wetland area and functions.

2. ~~For identifying and delineating wetlands, applicants shall use the 1987 Corps of Engineers Wetlands Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (WMVCR) Version 2.0, May 2010 or as revised.~~ Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements.

3. Wetlands shall be rated according to the *Washington State Wetland Rating System for Western Washington* (Department of Ecology 201~~0~~4, or as revised).

4. Additional Critical Area Report Requirements.

   In addition to the general critical area report requirements of Section 5.06.03(6), critical area reports for wetlands must meet the requirements of this Section. Critical area reports for two or more types of critical areas must meet the report requirements for each relevant type of critical area.

   a. A critical area report for wetlands shall contain an analysis of the wetlands including the following site and proposal-related information:

      i. Wetland delineation and required buffers;

      ii. Existing wetland acreage;

      iii. Wetland category;

Commented [BHC17]: Checklist 2011.a

Commented [BHC18]: Checklist 2016.b

iv. Vegetative, faunal, and hydrologic characteristics;

v. Soil and substrate conditions;

vi. Topographic elevations, at two-foot contours, and

vii. A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year – drift lines, algal layers, moss lines, and sediment deposits).

b. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity.

c. A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions.

d. Functional evaluation for the wetland and adjacent buffer using a local or state agency staff-recognized method and including the reference of the method and all data sheets.

5. The following wetland buffers widths, based on wetland category and land use intensity, shall apply to all wetlands in the shoreline jurisdiction:

Wetland Category	Buffer width
I	225 feet
II	225 feet
III	110 feet
IV	40 feet

Measures shall be implemented to the extent reasonably possible to minimize impacts from high intensity land uses. Examples of those measures are shown below (see *Wetlands in Washington State*, Volume 2, Appendix 8-C).

- Direct lights away from wetlands
- Locate activity that generates noise away from wetland
- Route new runoff away from wetland
- Use BMPs to control dust

6. Mitigation Sequencing. Before impacting any wetland or its buffer, an applicant shall demonstrate that mitigation sequencing has been followed according to Regulation 5.2.2.1.~~the following actions have been taken. Actions are listed in the order of preference:~~

~~a. Avoid the impact altogether by not taking a certain action or parts of an action.~~

~~b. Minimize impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.~~

~~c. Rectify the impact by repairing, rehabilitating, or restoring the affected environment.~~

~~d. Reduce or eliminate the impact over time by preservation and maintenance operations.~~

~~e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments.~~

~~f. Monitor the required compensation and take remedial or corrective measures when necessary.~~

Commented [BHC19]: ECOLOGY REVIEW COMMENT, Feb 13, 2019
Mitigation sequencing moved to regulatory provision instead of in the definitions chapter.

7. Compensatory mitigation for alterations to wetlands shall be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with *Wetland Mitigation in Washington State*, March 2006 or as revised.

8. Mitigation Ratios.

   a. Any person who alters or proposes to alter regulated wetlands shall restore or create areas of wetland in order to compensate for wetland losses. The wetlands to be created or restored shall be in-kind and accomplished prior to or concurrently with loss. The ratio of lost wetlands to newly created or restored shall be determined in accordance with *Wetland Mitigation in Washington State*, 2006 or as revised.

   b. Mitigation ratios shall be consistent with *Wetlands in Washington State, Volume 2, Appendix 8-C*. The mitigation ratio table is shown below:

Category of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement	Preservation
Category I	4:1	8:1	16:1	20:1
Category II	3:1	6:1	12:1	20:1
Category III	2:1	4:1	8:1	15:1
Category IV	1.5:1	3:1	6:1	10:1

9. Mitigation plan.

   When mitigation is required, the applicant shall submit for approval by Town a mitigation plan, prepared by a qualified professional, as part of the critical areas report. The mitigation plan shall include:

a. Environmental goals and objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:

   i. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;

   ii. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and

   iii. An analysis of the likelihood of success of the compensation project.

b. Performance standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Ordinance have been met.

c. Detailed construction plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:

   i. The proposed construction sequence, timing, and duration;

   ii. Grading and excavation details;

   iii. Erosion and sediment control features;

   iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and

d. Written specifications shall be accompanied by detailed site diagrams, scaled cross sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

e. Monitoring program. The mitigation plan shall include a program for monitoring construction of the compensation project, and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, 5 and 7 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project

shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five (5) years.

f. Contingency plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

10. On-site compensation is generally preferred over off-site compensation. Off-site compensation allows replacement of wetlands away from the site on which the wetland has been impacted by a regulated activity. The following conditions apply to off-site compensation:

    a. Off-site compensation shall occur within the same drainage basin of the same watershed where the wetland loss occurs, provided that Category IV wetlands may be replaced outside of the watershed if there is no reasonable alternative. In such instances, the stormwater storage function provided by Category IV Wetlands must be provided for within the design of the development project.

    b. Off-site compensation can be allowed only under one or more of the following circumstances:

        i. On-site compensation is not feasible due to hydrology, soils, or other factors;

        ii. On-site compensation is not practical due to probable adverse impacts from surrounding land uses or would conflict with a Federal, State or local public safety directive;

        iii. Potential functions and value at the site of the proposed restoration are greater than the lost wetland functions and value;

        iv. When the wetland to be altered is of a limited function and value and is degraded, compensation shall be of the wetland community types needed most in the location of compensation and those most likely to succeed with the highest functional value possible.

5.8 CRITICAL AREAS – FREQUENTLY FLOODED AREAS

5.8.1 Applicability

Flood hazard management projects are those actions taken with the primary purpose of preventing or mitigating damage due to flooding. Flood hazard management projects or programs may employ any or several physical or regulatory controls including dikes, dams, lakes, engineered floodways, bioengineering, planning and zoning (land use management). These provisions also apply to repair and maintenance of flood hazard management systems if the systems are enlarged or otherwise modified.

5.8.2 Policies

A. Flood hazard management planning should be undertaken in a coordinated manner among affected property owners and public agencies and should consider entire drainage systems. Thus, planning should consider the off-site erosion and accretion or flood damage that might occur as a result of stabilization or protection structures or activities.

B. Nonstructural solutions are preferred over structural flood control devices, and should be used wherever possible, including prohibiting or limiting development in historically flood prone areas, regulating structural design and limiting increases in peak stormwater runoff from new upland development, public education and land acquisition for additional flood storage.

C. Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that nonstructural solutions would not be able to reduce the damage and they can be accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide processes.

D. Development and shoreline modifications should not result in interference with the process of channel migration that may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with the rivers and streams.

E. Flood hazard protection measures should not result in a net loss of ecological functions associated with the rivers and streams.

F. Encourage the removal or relocation of structures in flood-prone areas when evaluating alternate flood control measures.

G. In design of publicly financed or subsidized works, consideration should be given to providing public pedestrian access to the shoreline for low intensity outdoor recreation.

H. Limit development and shoreline modifications that will result in interference with the process of channel migration and may cause significant adverse impacts to property or public improvements and/or result in a net loss of ecological functions associated with the river. A potential CMZ in Skykomish has been identified on the basis of data, maps, and a report from the Department of Ecology prepared for the exclusive use of Ecology and Skykomish for SMP planning purposes only. Refer to the report and the map in Appendix E.

5.8.3 Regulations

1. In addition to the following provisions, development and use proposed to be located within flood hazard areas shall be regulated per Section 16.10. SMC (Ordinance 255, 1-21-1997).

2. The following uses and activities may be permitted within the floodway or the channel migration zone:

    a. Development with a primary purpose of protecting or restoring ecological functions and ecosystem-wide processes.

    b. Existing and ongoing agricultural practices, provided that no new restrictions to channel movement occur.

    c. Bridges, utility lines, and other public utility and transportation structures where no other feasible alternative exists or the alternative would result in unreasonable and disproportionate cost. Where such structures are allowed, mitigation shall address impacted functions and processes in the affected section of watershed.

    d. Repair and maintenance of an existing legal use, provided that such actions do not cause significant ecological impacts or increase flood hazards to other uses.

    e. Modifications or additions to an existing nonagricultural legal use, provided that channel migration is not further limited and that the new development includes appropriate protection of ecological functions.

    f. Development where existing structures prevent active channel movement and flooding.

    g. Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate exceeds that which would normally occur in a natural condition.

3. New structural flood hazard reduction measures may be allowed in shoreline jurisdiction only when it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss, and that appropriate vegetation conservation actions are undertaken consistent with section 5.13.

4. New structural flood hazard reduction measures shall be placed landward of the associated wetlands, and designated vegetation conservation areas, except for actions that increase ecological functions, such as wetland restoration.

5. New structural public flood hazard reduction measures, such as dikes and levees, shall include public access unless it would cause unavoidable health or safety hazards to the public, security problems, significant ecological impacts, conflicts with the proposed use, or a cost that is disproportionate to the total long-term cost of the development.

6. The removal of gravel for flood management purposes shall be consistent with an adopted flood hazard reduction plan and allowed only after a biological and

geomorphologic study shows that there is a long-term benefit to flood hazard reduction and does not result in a net loss of ecological functions.

5.9 CRITICAL AREAS – GEOLOGICAL HAZARD AREAS

5.9.1 Applicability

Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development or clearing is sited in areas of significant hazard. Such incompatible development or clearing may not only place itself at risk, but also may increase the hazard to surrounding development and use.

Vegetation removal during development of adjacent uplands alters surface runoff and ground water infiltration patterns and can lead to increased bluff instability.

5.9.2 Policies

A. Development should be prohibited or minimized on unstable or moderately unstable slopes.

B. Development should be permitted only in locations where no slope protection is necessary or where nonstructural protection is sufficient for the life of the project.

C. Clearing vegetation on and within edges of bluffs should be avoided. Retention of natural vegetation should be encouraged.

D. Structures should be designed and constructed in a manner that provides safety for the useful life of the structure and does not require construction of a retaining wall or bulkhead during that same time span.

5.9.3 Regulations

1. No development or subdivision shall be permitted where slope protection is necessary or where nonstructural protection is not sufficient for the life of the project.

2. New stabilization structures for existing primary residential structures are allowed only where no alternatives (including relocation or reconstruction of existing structures), are feasible, and less expensive than the proposed stabilization measure, and then only if no net loss of ecological functions will result.

3. Geologically Hazardous Areas Designation.

   Areas susceptible to one or more of the following types of hazards shall be designated as a geologically hazardous area:

   a. Erosion hazard areas. Erosion hazard areas are areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a

"moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard.

b. Landslide hazard areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil type, slope (gradient), slope aspect, structure, hydrology, or other factors. Example of these may include, but are not limited to the following:

i. Areas potentially unstable because of rapid stream incision, stream bank erosion, or undercutting by wave action including marine bluffs and ravines;

ii. Areas of historic failures, such as:

A. Those areas delineated by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "severe" limitation for building site development;

B. Those areas mapped by the Department of Ecology (Coastal Zone Atlas) or the Department of Natural Resources (slope stability mapping) as unstable ("U" or class 3), unstable old slides ("UOS" or class 4), or unstable recent slides ("URS" or class 5); or

C. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Department of Natural Resources;

iii. Areas with all three of the following characteristics:

A. Slopes steeper than fifteen percent (15%);

B. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and

C. Springs or ground water seepage.

iv. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;

v. Any area with a slope of forty percent (40%) or steeper and with a vertical relief of ten (10) or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten (10) feet of vertical relief.

4. Geological Hazard Report Requirements

In addition to the requirements of 5.06.03(6), a critical areas report for a geological hazard area shall include the following information:

a. Geological or geotechnical report. The report shall include an assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the available site history regarding landslides, erosion, other geologic hazards, and prior fill and grading. Soils analysis shall be accomplished in accordance with accepted classification systems in use in the region. The assessment shall include, but not be limited to:

   i. A description of the surface and subsurface geology, hydrology, soils, and vegetation found in the project area and in all hazard areas addressed in the reportwith any existing conditions including drainfields, cuts and fills;

   ii. A detailed overview of the field investigations, published data and references; data and conclusions from past assessments of the site; and site-specific measurements, test, investigations, or studies that support the identification of geologically hazardous areas;

   iii. The report shall contain a hazards analysis including a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property and affected adjacent properties;

   iv. Detailed recommendations for preventing significant erosion or landslides on the site which shall specifically address how the activity maintains or reduces the pre-existing level of risk to the site and adjacent properties on a long-term basis (equal to or exceeding the projected lifespan of the activity or occupation) including proposed drainage and sub-drainage improvements, and mitigation of adverse site conditions including slope stabilization measures and seismically unstable soils, if appropriate. Proposed mitigation techniques shall be considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function;

   v. Parameters for design of site improvements including special foundations and retaining structures if proposed. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations and estimates of settlement performance;

   vi. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary.

c. Minimum buffer and building setback. The report shall make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.

d. Engineered drainage plan. All development within a landslide hazard area shall provide an engineered drainage plan including an erosion and sediment control plan. The plan shall meet the current requirements of the Municipal Code and

the current Stormwater Management Manual adopted by the Town. Special drainage requirements may be required by the Town Engineer where the Town has determined that the standard drainage requirement may not fully protect the site, neighboring properties, and public safety and welfare.

e. Engineered Site plan. The report shall include a copy of a scaled site plan for the proposal showing:

i. The height of slope, slope gradient, and cross section of the project area;

ii. The location of springs, seeps, or other surface expressions of ground water on or within two hundred (200) feet of the project area or that have potential to be affected by the proposal;

iii. The location and description of surface water runoff features;

iv. The location of existing and proposed structures, fill, access roads, drainage facilities, and distances from top and/or toe of the slope; and

v. Other critical areas and buffers.

f. Mitigation plans. Hazard and environmental mitigation plans for landslide hazard areas shall include the location and methods of drainage, surface water management, locations and methods of erosion control, a vegetation management and/or replanting plan and/or other means for maintaining long term soil stability.

g. Monitoring surface waters. If the City determines that there is a significant risk of damage to downstream receiving waters due to potential erosion from the site, based on the size of the project, the proximity to the receiving waters, or the sensitivity of the receiving waters, the technical information shall include a plan to monitor the surface water discharge from the site. The monitoring plan shall include a recommended schedule for submitting monitoring reports to the City.

5. Performance Standards - General

The following apply to all geologically hazardous areas

(a) Alterations of geologically hazardous areas. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:

(i) Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;

(ii) Will not adversely impact other critical areas;

(iii) Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and

(iv) Are certified as safe as designed and under anticipated conditions by a qualified professional, licensed in the state of Washington.

(b) Critical facilities prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative.

(c) Vegetation shall be retained. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited;

(d) Seasonal restriction. Clearing shall be allowed only from May 1st to October 1st of each year provided that the City may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the City or the Department of Natural Resources;

(e) Utility lines and pipes. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. Cost is not to be considered in determining practical alternatives. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.

(f) Point discharges. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited except as follows:

(i) Conveyed via continuous storm pipe downslope to a point where there are no erosion hazards areas downstream from the discharge;

(ii) Discharged at flow durations matching predevelopment conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the pre-developed state; or

(iii) Dispersed discharge upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope;

6. Performance Standards - Landslide hazard areas

In addition to the performance standards in Section 5 above, activities on sites containing landslide hazards shall meet the following requirements:

a. Prohibited development.

i. Placement of structures, excavation, and earth fills on slopes greater than 60% is prohibited.

ii. Placement of structures and excavation and earth fills on sites associated with coastal bluffs, stream bank erosion areas and ravines with slopes over 40% is prohibited.

iii. Installation of on-site sewage disposal systems, including drain fields, shall be prohibited within landslide hazard areas and related buffers.

b. Buffer required. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the City to eliminate or minimize the risk of property damage, death or injury resulting from landslides caused in whole or part by the development, based upon review of and concurrence with a critical areas report prepared by a qualified professional.

i. Minimum buffer. The minimum buffer shall be fifty (50) feet.

ii. Buffer reduction. The buffer may be eliminated for slopes under 40% and reduced to a minimum of ten (10) feet for all other slopes when a qualified professional demonstrates to the City's satisfaction that the reduction will adequately protect the proposed development, adjacent properties and uses and the subject critical area.

iii. Increased buffer. The buffer may be increased where the City determines a larger buffer is necessary to prevent risk of damage to proposed and existing development;

c. Alterations. Alterations of a landslide hazard area and/or buffer may only occur for activities for which a hazards analysis is submitted and certifies that:

i. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;

ii. The development will not decrease slope stability on adjacent properties; and

iii. Such alterations will not adversely impact other critical areas;

d. Design and analysis standards. Development within a landslide hazard area and/or buffer shall be designed to meet the following basic requirements unless it can be demonstrated that an alternative design that deviates from one or more of these standards provides greater long-term slope stability while meeting all other provisions of this Ordinance. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function. The basic development design standards are:

i. The proposed development shall not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by the current version Building Code as specified in NPMC 14.04.030.

ii. Structures and improvements shall be clustered to avoid geologically hazardous areas and other critical areas;

iii. Structures and improvements shall minimize alterations to the natural contour of the slope and foundations shall be tiered to conform to existing topography;

iv. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

v. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

vi. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes;

5.10 CRITICAL AREAS – FISH AND WILDLIFE HABITAT CONSERVATION AREAS

5.10.1 Applicability

Salmon and steelhead (salmonids) are important economic and recreational resources throughout the region. In order to maintain and promote salmonid habitat in Skykomish, it is vital to protect and enhance freshwater habitats within the Skykomish River, Maloney Creek, and other small tributaries that flow into these waterways. Because of the importance of these sensitive habitat areas, this Shoreline Master Program gives special attention to them. The following policies and regulations apply to the Skykomish River, streams and tributaries within the designated shoreline jurisdiction and all associated wetlands and their hydrologic connections that provide habitat for salmonids.

5.10.2 Policies

A. Freshwater habitat supports valuable cultural, recreational, and commercial fisheries. Healthy, diverse, undisturbed habitat is an essential building block for a thriving salmonid fishery. Aggressive efforts to protect and enhance salmonid habitat are encouraged because of its importance to the aquatic ecosystem and the local economy.

B. Non-water dependent or non-water-related uses, activities, structures and landfills should not be located in freshwater habitats.

C. Where water-dependent uses, activities, structures, and landfills must locate in freshwater habitats, impacts on these areas shall result in no net loss of ecological functions and values

D. Developments which are not located in freshwater habitats but which have the potential to significantly affect these habitats shall be located and designed so that significant adverse impacts on salmonid habitats are lessened to the maximum extent possible. Mitigation measures for adverse impacts should be developed in consultation with the Town of Skykomish, the State Department of Fish and Wildlife, the Army Corps of Engineers, the Washington State Department of Ecology and the Tulalip Indian Tribe.

E. Adopt-A-Stream programs and similar efforts to protect and rehabilitate salmonid spawning, rearing, feeding, refuge, and migration habitat are encouraged. The educational value of these programs can be an extremely important element in accomplishing habitat protection and restoration, in addition to the hands-on restoration work conducted by volunteers.

F. Impervious surfaces should be minimized in upland developments to reduce stormwater runoff peaks. Structures and uses creating significant impervious surfaces shall include stormwater detention systems to reduce stormwater runoff peaks.

G. Fishery enhancement projects are encouraged where they will not significantly interfere with other beneficial uses.

5.10.3 Regulations

1. Fish and Wildlife Habitat Conservation Areas Designation.

   All of the following habitat areas are designated Fish and Wildlife habitat conservation areas:

   a. State and Federally Designated Areas. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association.

   b. State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the state Department of Fish and Wildlife.

c. Habitats and species of local importance. Habitats and species of local importance are those designated by the Town, including those habitats and species that, due to their population status or sensitivity to habitat manipulation, warrant protection through possible retention or recovery of connectivity of habitat features. The following steps shall be taken to nominate habitats or species of local importance:

   i. Demonstrate a need for special consideration based on:

      - Declining population,
      - Sensitivity to habitat manipulation, or
      - Commercial or game value or other special value, such as public appeal;

   ii. Propose relevant management strategies considered effective and within the scope of this Chapter;

   iii. Provide species habitat location(s) on a map (scale 1:24,000). Submitted proposals will be reviewed by the Town and forwarded to the Departments of Fish and Wildlife, Natural Resources and other local and State agencies or experts for comments and recommendations regarding accuracy of data and effectiveness of proposed management strategies. The Town will hold a public hearing for proposals found to be complete, accurate, potentially effective and within the scope of this SMP. Nominations approved by the Town Council will become designated "Habitats or Species of Local Importance" and will be subject to the provisions of this SMP.

d. Waters of the state. Waters of the state includes lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington, as classified in WAC 222-16-030.

2. Fish and Wildlife Habitat Conservation Areas Report Requirements.

In addition to the requirements of 5.06.03(6), a critical areas report for habitat conservation areas must meet the requirements of this Section.

a. Detailed description of vegetation on and adjacent to the project area;

b. Identification of any species of local importance, priority species, or endangered, threatened, sensitive or federal or state candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;

c. A discussion of any federal, state, or local special management recommendations, including Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area;

d. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;

e. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

3. Performance Standards

a. Alterations prohibited. Land development and use shall be prohibited from habitat conservation areas except in accordance with these regulations.

b. Mitigation shall result in contiguous corridors. When mitigation is required to offset impacts, mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

c. Approvals of activities may be conditioned. The Town shall condition approvals of activities allowed within or adjacent to a habitat conservation area, as necessary, to minimize or mitigate any potential adverse impacts. Conditions may include, but are not limited to, the following:

i. Any approval of alterations or impacts to a habitat conservation area shall be supported by the best available science.

ii. Preservation of critically important vegetation;

iii. Limitation of access to the habitat area, including fencing to deter unauthorized access;

iv. Seasonal restriction of construction activities;

v. Establishment of a duration and timetable for periodic review of mitigation activities; and

d. Special consideration for anadromous fish. In accordance with WAC 365-195-925, anadromous fish shall receive the following special considerations:

i. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies shall adhere to the following standards:

A. Activities shall be timed to occur only during the allowable work window as designated by the Department of Fish and Wildlife for the applicable species;

B. Shoreline erosion control measures shall be designed to use bioengineering methods or soft armoring techniques according to an approved critical areas report, and;

ii. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies currently or historically used by anadromous fish.

iii. Fills, when authorized, shall not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts, and shall only be allowed for a water-dependent use.

4. The following specific activities may be permitted within a critical freshwater habitat when the activity complies with the following standards.

a. Roads, trails, bridges, and rights-of-way. Construction of trails, roadways, and minor road bridging, less than or equal to thirty (30) feet wide, may be permitted in accordance with an approved critical areas report subject to the following standards:

i. There is no other feasible alternative route with less impact on the environment;

ii. The crossing minimizes interruption of downstream movement of wood and gravel;

iii. Roads in riparian habitat areas or their buffers shall not run parallel to the water body;

iv. Trails shall should be located on the outer edge of the riparian area or buffer, except for limited viewing platforms and water crossings;

v. Water crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;

vi. Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical areas report;

vii. Road bridges are designed according to the currently adopted versions of the Department of Fish and Wildlife Fish Passage Design at Road Culverts, March 1999, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000 or as revised; and

viii. Trails and associated viewing platforms shall not be made of continuous impervious materials.

b. Utility Facilities. New utility lines and facilities may be permitted to cross watercourses in accordance with an approved critical areas report if they comply with the following standards:

i. Fish and wildlife habitat areas shall be avoided to the maximum extent possible;

ii. Installation shall be accomplished by boring below the maximum depth of scour for the base flood predicted by a qualified professional and hyporheic zone of the water body, where feasible;

iii. The utilities shall cross at an angle greater than sixty (60) degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;

iv. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;

v. The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and

vi. The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.

c. Public flood protection measures. New public flood protection measures and expansion of existing ones may be permitted, subject to the Town's review and approval of a critical areas report and the approval of a Federal Biological Assessment by the federal agency responsible for reviewing actions related to a federally listed species.

d. Stream bank Stabilization. Stream bank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report.

e. Instream structures. Instream structures, such as, but not limited to, high flow bypasses, sediment ponds, instream ponds, retention and detention facilities, tide gates, dams, and weirs, shall be allowed only as part of an approved watershed basin restoration project approved by the Town and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.

f. Stormwater conveyance facilities. Conveyance structures may be permitted in accordance with an approved critical areas report subject to the following standards:

i. No other feasible alternatives with less impact exist;

ii. Mitigation for impacts is provided;

iii. Stormwater conveyance facilities shall incorporate fish habitat features; and

iv. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.

5.11 PUBLIC ACCESS

5.11.1 Applicability

Shoreline public access is the physical ability of the general public to reach, touch and enjoy the water's edge, to travel on waters of the state, and to have a view of the water and the shoreline from upland locations. There are a variety of types of public access, including picnic areas, pathways and trails, promenades, bridges, street ends, ingress and egress, parking and others, although many of these are not currently provided along the Skykomish shoreline.

5.11.2 Policies

A. Public access to the Skykomish shoreline does not include the right to enter upon or cross private residential property.

B. Preservation and enhancement of the public's visual access to the Skykomish River should be encouraged.

C. Where appropriate, public access should be provided as close as possible to the water's edge without adversely affecting a sensitive environment and should be designed for universal accessibility.

D. Publicly owned shorelines should be limited to water-dependent or public recreation uses, otherwise such shorelines should remain protected open space.

E. Public access afforded by shoreline street ends should be preserved, maintained and enhanced.

F. Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy.

G. There should be a physical separation or other means of clearly delineating public and private space in order to avoid unnecessary user conflict.

H. Public views from the shoreline upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excess removal of vegetation that partially impairs views.

5.11.3 Regulations

1. Shoreline development by public entities, including the Town of Skykomish, state agencies, and public utility districts shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment.

2. When it is demonstrated that a more effective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations, the Town may institute master program provisions for public access based on that approach in lieu of uniform site-by-site public access requirements.

3. For the subdivision of land into more than four parcels, public access should be provided except:

   a. Where the Town provides more effective public access through a public access planning process described in WAC 173-26-221 (4)(c); or

   b. Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable. In these cases, the Town may consider alternate methods of providing public access, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.

   c. For individual single-family residences not part of a development planned for more than four parcels.

4. Assure that public access improvements do not result in a net loss of shoreline ecological functions.

5.12 SIGNAGE

5.12.1 Applicability

A sign is defined as a device of any material or medium, including structural component parts, which is used or intended to be used to attract attention to the subject matter for advertising, identification or informative purposes. The following provisions apply to any commercial or advertising sign directing attention to a business, professional service, community, site, facility, or entertainment, conducted or sold either on or off premises.

5.12.2 Policies

A. Signs should be designed and placed so that they are compatible with the aesthetic quality of the existing shoreline and adjacent land and water uses.

B. Signs should not block or otherwise interfere with visual access to the water or shorelands.

C. The design of signs should not reduce auto safety or visual aesthetics from adjacent property.

D. Signs should be of a permanent nature that are linked to the operation of existing uses and attached to said uses.

E. Outdoor advertising and billboards should not be considered an appropriate use of the shoreline area.

5.12.3 Regulations

1. Signs shall comply with the Skykomish sign regulations.

2. Sign plans and designs shall be submitted for review and approval at the time of shoreline permit approval.

3. All signs shall be located and designed to minimize interference with vistas, viewpoints and visual access to the shoreline.

4. Overwater signs shall be related to water-dependent uses only.

5. Temporary or obsolete signs shall be removed within ten (10) days of elections or termination of any other functions. Examples of temporary signs include: real estate signs, directions to events, political advertisements, event or holiday signs, construction signs.

6. Existing legal signs that do not meet the policies and regulations of this program shall be removed or required to conform within two (2) years of the adoption of this master program.

7. Signage shall not be placed at street ends abutting the Skykomish River or Maloney Creek within the Shoreline jurisdiction.

ALLOWABLE SIGNS

8. The following types of signs may be allowed in all shoreline environments:

   a. Water navigational signs, and highway signs necessary for operation, safety and direction.

   b. Public information signs directly relating to a shoreline use or activity.

   c. Off-premise, freestanding signs for community identification, information, or directional purposes.

   d. National, site and institutional flags or temporary decorations customary for special holidays and similar events of a public nature.

   e. Temporary directional signs to public or quasi-public events if removed within ten (10) days following the event.

PROHIBITED SIGNS

9. The following signs are prohibited:

   a. Off-premises detached outdoor advertising signs.

b. Spinners, streamers, pennants, flashing lights, and other animated signs used for commercial purposes.

c. Signs placed on trees or other natural features.

d. Commercial signs for products, services, or facilities located off-site.

5.13 VEGETATION CONSERVATION

5.13.1 Applicability

Vegetation within and adjacent to water bodies provides a valuable function for the health of aquatic ecosystems. Vegetation conservation includes activities to protect and restore vegetation along or near shorelines that contribute to the ecological functions of shoreline areas. Vegetation conservation provisions include the prevention or restriction of plant clearing and earth grading, vegetation restoration, and the control of invasive weeds and nonnative species.

Best available science indicates that the length, width, and species composition of a shoreline vegetation community contribute substantively to the aquatic ecological functions. Likewise, the biota within the aquatic environment is essential to ecological functions of the adjacent upland vegetation. The ability of vegetated areas to provide critical ecological functions diminishes as the length and width of the vegetated area along shorelines is reduced. When shoreline vegetation is removed, the narrower the area of remaining vegetation, the greater the risk that the functions will not be performed. The technology of bioengineering uses live plant materials as a main structural component. As these plant materials grow, these systems work with the natural environment to create the permanent protection and preservation of land. The advantage of soil bioengineering is often found where conventional stabilization and erosion control methods are limited in benefits, uneconomical, unsuitable or ineffective. Vegetation also mitigates seasonal temperature swings of waters, provides habitat for wildlife, and contributes to the aesthetic quality of the area. This system should be considered when evaluating any shoreline modification activity.

5.13.2 Policies

A. Native plant communities within and bordering shorelines, wetlands, lakes, creeks, and side channels should be protected and maintained to minimize damage to the ecology and environment of the shoreline area.

B. Restoration of degraded shorelines due to natural or manmade causes should, wherever feasible, use soil bioengineering techniques to minimize the processes of erosion, sedimentation, and flooding.

C. Aquatic weed management should involve usage of native plant materials wherever possible in soil bioengineering applications and habitat restoration activities. Where active removal or destruction of aquatic vegetation is necessary, it should be done only to the extent necessary to allow water-dependent activities to continue. Removal or modification of aquatic vegetation should be conducted in a manner

that minimizes adverse impacts to native plant communities and/or salmonid habitat and should include appropriate handling or disposal of weed materials and attached sediments.

D. The design and use of naturally regenerating systems for prevention and control of beach erosion should be encouraged where:

1. The length and configuration of the beach will accommodate such systems;

2. Such protection is a reasonable solution to the needs of the specific site; and

3. Beach restoration/enhancement will accomplish the following objectives:

i. Recreate or enhance natural shoreline conditions and habitat;

ii. Reverse otherwise erosional conditions; and

iii. Enhance access to the shore, especially to public shores.

E. The following BMPs should be incorporated in vegetation management activities:

1. Avoid use of herbicides, fertilizers, insecticides, and fungicides along banks of streams, drainage channels, and shores of the Skykomish River (and other water bodies within the Town) as well as in the water.

2. Limit the amount of lawn and garden watering so that there is no surface runoff.

3. Dispose of grass clippings, leaves, or twigs properly; do not sweep these materials into the street, into a body of water, or near a storm drain.

5.13.3 Regulations

1. All unique and fragile shorelines shall be protected from degradation caused by the modifications of the land surface within the shoreline area and/or the adjacent uplands.

2. Restoration of any shoreline or streambank that has been disturbed or degraded shall use noninvasive plant materials with a diversity and type similar to that which most recently occurred on-site.

3. Stabilization of exposed erosion-prone surfaces along shorelines of lakes, streams, side channels, and wetlands shall, wherever feasible, utilize soil bioengineering techniques.

4. Aquatic vegetation control shall only occur when native plant communities and associated habitats are threatened or where an existing water dependent use is restricted by the presence of weeds. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards.

5. The control of aquatic vegetation by derooting, rotovating or other methods which disturb the bottom sediment or benthos shall be considered development for which a shoreline substantial development permit is required.

6. The application of herbicides or pesticides in lakes, rivers, streams, wetlands, or ditches requires a permit from the Washington Department of Ecology and may require preparation of a SEPA checklist for review by other agencies. The individual(s) involved must obtain a pesticide applicator license from the Washington State Department of Agriculture.

7. All projects shall comply with the provisions of the 2016 Skykomish Critical Areas Ordinance.

Commented [BHC20]: Checklist 2016.b and 2011.a

5.14 VIEW PROTECTION

5.14.1 Applicability

The protection of "scenic vistas" within the shorelines and water bodies is an important shoreline management objective. Protection of significant views is a form of public access; the access being visual rather than physical. Consideration must be given to protection of the visual quality of the shoreline resource and to maintenance of view corridors to and from waterways and their adjacent shoreland features.

The protection of views as a shoreline management objective is established as set forth in RCW 90.58.020 where it states:

> "in the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."

RCW 90.58.320 also addresses view protection on adjacent lands stating:

> "No permit shall be issued pursuant to this chapter for any new or expanded building or structure of more than thirty-five (35) feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served."

View protection can include preventing view blockage through height limitations or requiring aesthetic enhancement with landscaping. However, view protection does not allow for excessive vegetation removal to create views or enhance partial existing views. Please refer to the *Vegetation Conservation* and *Clearing and Grading* provisions contained in this chapter.

5.14.2 Policies

A. Development, uses and activities on or near the shoreline should not impair or detract from the public's visual access to the water.

B. Public views from the shoreline and upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excessive removal of vegetation that partially impairs views.

5.14.3 Regulations

1. Shoreline uses and activities shall be designed and operated to avoid blocking, reducing, or adversely interfering with the public's visual access to the water and shorelines except as provided for in *Vegetation Management* in the *General Policies and Regulations* portion of this chapter.

2. Public lands such as street ends, rights-of-way and utilities shall provide visual access to the water and shoreline in accordance with RCW 35.79.035 and RCW 36.87.130 (see the Department of Ecology publication, Shoreline Public Access Handbook).

3. In providing visual access to the shoreline, the natural vegetation shall not be excessively removed either by clearing or by topping (see *Clearing and Grading* in the *Shoreline Modification* portion of this chapter).

4. Development on or over the water shall be constructed as far landward as possible to avoid interference with views from surrounding properties to the shoreline and adjoining waters.

5. Development on the water shall be constructed of non-reflective materials that are compatible in terms of color and texture with the surrounding area.

5.15 WATER QUALITY

5.15.1 Applicability

Water quality is affected in numerous ways by human occupation and development of shoreline areas. Typically, the increase in impermeable surfaces as a result of development increases stormwater runoff volumes, causing higher peak stormwater discharges at higher velocities that cause scouring and erosion of stream banks. Erosion increases suspended solids concentrations and turbidity in receiving waters, and carries heavy metals, household wastes, excess nutrients, and other pollutants into these waters. Increased nitrogen and phosphorus enrichment results in algal growth that depresses levels of dissolved oxygen in receiving waters. The degradation of water quality adversely impacts wildlife habitat and public health.

Maintaining high water quality standards and restoring degraded systems has been mandated in RCW 90.58.020. Water quality is impacted by a variety of uses and

modifications and clearly needs broad policies and regulations to protect the shorelines and the associated waters of the state.

5.15.2 Policies

A. All shoreline uses and activities should be located, designed, constructed and maintained to minimize adverse impacts to water quality and fish and wildlife resources including spawning, nesting, rearing, and feeding areas and migratory routes.

B. The Town should require reasonable setbacks, buffers and stormwater treatment and detention facilities to achieve the objective of lessening adverse impacts on water quality.

C. The Town should ensure that there is mutual consistency between shoreline management provisions and other regulations that address water quality and storm water quantity, including public health, storm water, and water discharge standards. The regulations that are most protective of ecological functions should apply.

5.15.3 Regulations

1. All shoreline development shall comply with the applicable requirements of the Stormwater Management Manual for Western Washington (revised 2005) (Ecology publication # 05-10-029) or the stormwater regulations used by the Town, and the Skykomish Drainage Ordinance.

6 SHORELINE USE POLICIES & REGULATIONS

6.1 INTRODUCTION

Specific Shoreline Use provisions are more detailed than the *General* policies and regulations. The *Shoreline Use* policies and regulations apply to specific use categories and provide a greater level of detail in addressing shoreline uses and their impacts. *Specific Shoreline Use* policies establish the shoreline management principles that apply to each use category and serve as a bridge between the various elements in the Shoreline Master Program goals (e.g., Circulation, Economic Development, Public Access, etc.) and the use regulations that follow. These regulations set physical development and management standards for development of that type of use. *Specific Shoreline Use* categories include:

- Commercial Development (retail, restaurants, offices, etc.)
- Parking
- Recreational Development - non-boating (parks, trails, golf courses, etc.)
- Residential Development
- Transportation Facilities (roads, ferries, private air strips, etc.)
- Unclassified Uses and Activities
- Utilities: Primary (wastewater treatment, electrical substations, etc.)

6.1.1 Prohibited Activities

The following activities are specifically prohibited uses within the shoreline jurisdiction in the Town of Skykomish:

- Agriculture
- Boating Facilities (marinas, launch ramps, moorage, etc.)
- Piers, docks, and floats
- Forest Practices
- Floating Homes/Overwater Residential
- Industrial Development
- Mining

Commented [BHC21]: ECOLOGY REVIEWER COMMENT, Feb 13, 2019:
These uses are already prohibited in the Chapter 8 Use table, and they should be called out here, too.

Commented [BHC22]: Checklist 2014.b
ECOLOGY REVIEWER COMMENT, Feb 13, 2019:
This meets the checklist guidance which prohibits new floating or over-water residential uses.

6.2 COMMERCIAL DEVELOPMENT

6.2.1 Applicability

Commercial development means those uses which are involved in wholesale, retail, service and business trade. Examples include hotels, motels, grocery markets, shopping centers, restaurants, shops, offices and private or public indoor recreation facilities. Excluded from this category are residential or recreational subdivisions, boating facilities, and industry.

6.2.2 Policies

A. New commercial development located in shoreline areas should be limited to those which are water-oriented uses and activities as defined herein. Commercial

development in shoreline areas should be encouraged in descending order of preference as follows:

1. Water-dependent uses;

2. Water-related uses; and

3. Water-enjoyment uses.

Non-water-oriented development is strongly discouraged; however, when permitted, it should not displace water-oriented development in shoreline areas.

B. New commercial development on shorelines should be encouraged to locate in those areas with existing consistent commercial uses and in a manner that will minimize sprawl and the inefficient use of shoreline areas.

C. Commercial development should be required to provide physical or visual access to the shoreline or other opportunities for the public to enjoy the shorelines of the state.

D. Multiple use concepts which include open space and recreation should be encouraged in commercial developments.

E. Commercial development should be aesthetically compatible with the surrounding area. Structures should not significantly impact views from upland properties, public roadways or other public areas, and from the water.

6.2.3 Regulations

1. The Town shall require and utilize the following information in its review of commercial development proposals:

   a. Nature of the commercial activity, (e.g., water-dependent, water-related, water-enjoyment, non-water-oriented, mixed-use) including a breakdown of specific components;

   b. Need for shoreline location;

   c. Special considerations for enhancing the relationship of the activity to the shoreline;

   d. Provisions for public visual and physical access to the shoreline;

   e. Provisions to ensure that the development will not cause adverse environmental impacts and will result in no net loss of shoreline functions; and

   f. For mixed-use proposals, present alternative mixes of water-oriented and non-water-oriented uses and activities, structural locations, site designs and bulk considerations, alternative enhancements for physical and visual public access

to the shoreline (both public and private space) and other considerations which address the goals and policies of the shoreline master program.

2. Water-oriented commercial developments may be permitted as indicated in Chapter 8.

3. Non-water-oriented commercial developments may be permitted in the High Intensity Shoreline Environment and by conditional use permit in the Shoreline Residential Environment where it can be demonstrated that:

   a. A water-oriented use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features or due to the site's separation from the water;

   b. The proposed use does not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses; and

   c. The proposed use will be of appreciable public benefit by increasing public use, enjoyment or access to the shoreline.

   d. The proposed use will result in no net loss of shoreline functions.

4. Commercial development is PROHIBITED in Natural Environments.

5. Public access provisions shall conform to the requirements in this program.

6.3 PARKING

6.3.1 Applicability

Parking is the temporary storage of automobiles or other motorized vehicles. The following provisions apply only to parking that is accessory to a permitted shoreline use. Parking as a primary use and parking which serves a use not permitted in the shoreline jurisdiction is prohibited.

6.3.2 Policies

A. Parking in shoreline areas should be minimized.

B. Parking in shoreline areas should directly serve a use allowed under this master program.

C. Parking facilities in shoreline areas should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance.

D. Parking in shoreline areas should not restrict access to the site by necessary public safety vehicles, utility vehicles, or other vehicles requiring access to shoreline properties.

6.3.3 Regulations

1. Parking as a primary use shall be prohibited within the shoreline jurisdiction.

2. Parking or storage of recreational vehicles or travel trailers as a primary use shall be Prohibited in all shoreline environment jurisdictions.

3. Parking in shoreline jurisdiction shall directly serve a use allowed under this shoreline master program.

4. Parking facilities shall provide adequate provisions to control surface water runoff to prevent it from contaminating water bodies.

5. Parking facilities serving individual buildings on the shoreline shall be located landward from the principal building being served, except when the parking facility is within or beneath the structure and adequately screened or in cases when an alternate orientation would have less adverse impact on the shoreline.

6. Exterior parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent shoreline and abutting properties. Exterior parking facilities for nonresidential uses shall be landscaped with vegetation in such a manner that plantings provide effective screening within three (3) years of project completion.

7. Parking facilities will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

6.4 RECREATIONAL DEVELOPMENT

6.4.1 Applicability

Recreational development provides opportunities for the refreshment of body and mind through forms of play, sports, relaxation, amusement or contemplation. It includes facilities for passive recreational activities such as hiking, photography, viewing and fishing. It also includes facilities for active or more intensive uses such as parks, campgrounds, golf courses and other outdoor recreation areas. This section applies to both publicly and privately owned shoreline facilities intended for use by the public or a private club, group, association or individual.

6.4.2 Policies

A. Shoreline recreational developments should be consistent with all adopted park, recreation, and open space plans with priority given to development for access to the water.

B. The location and design of shoreline recreational developments should relate to local population characteristics, density and special activity demands. Acquisition priorities should consider these needs demands and special opportunities as well as public transit access and access for the physically impaired, where planned or available.

C. Recreational developments should be located, designed and operated to be compatible with, and minimize adverse impacts on, environmental quality and valuable natural features as well as on adjacent and surrounding land and water uses. Favorable consideration should be given to proposals which complement their environment and surrounding land and water uses, and which leave natural areas undisturbed and protected.

D. Shoreline areas with a potential for providing recreation or public access opportunities should be identified for this use and acquired by lease or purchase and incorporated into the public park and open space system. Priority should be given to recreational development for access to and enjoyment and use of the water.

E. Recreational developments should be located and designed to preserve, enhance or create scenic views and vistas.

F. The use of shoreline street ends and publicly owned lands for public access and development of recreational opportunities should be encouraged.

G. All recreational developments should make adequate provisions for:

a. Vehicular and pedestrian access, both on-site and off-site;

b. Proper water supply and solid and sewage waste disposal methods;

c. Security and fire protection;

d. The prevention of overflow and trespass onto adjacent properties, including but not limited to landscaping, fencing and posting of property; and

e. Buffering of such development from adjacent private property or natural area.

H. Commercial recreational development shall also be consistent with Section 6.02 Commercial Development.

6.4.3 Regulations

1. Valuable shoreline resources and fragile or unique areas such as wetlands, estuaries and accretion beaches shall be used only for nonintensive and nonstructural recreation activities.

2. All permanent substantial recreational structures and facilities shall be located outside officially mapped floodways provided the Town may allow nonintensive minor accessory uses (e.g., picnic tables, tennis courts, etc.).

3. Substantial accessory use facilities, such as rest rooms, recreation halls and gymnasiums, commercial services, access roads and parking areas shall be setback from the OHWM unless it can be shown that such facilities are essentially shoreline-dependent (see Chapter 8 for applicable setback requirements). These areas may be linked to the shoreline by walkways.

4. In approving shoreline recreational developments, the Town shall ensure that the development will maintain, enhance or restore desirable shoreline features including unique and fragile areas, scenic views and aesthetic values. To this end, the Town may adjust and/or prescribe project dimensions, location of project components on the site, intensity of use, screening, parking requirements and setbacks, as deemed appropriate to achieve this intent.

5. Recreational developments shall provide facilities for non-motorized access to the shoreline such as pedestrian and bicycle paths, as appropriate.

6. Motorized vehicular access is prohibited on beaches, bars, spits and stream beds.

7. To protect natural resources and adjacent properties, recreational facility design and operation shall prohibit the use of all-terrain and off-road vehicles in the shoreline area.

8. Proposals for developments shall include a landscape plan that utilizes primarily native, self-sustaining vegetation. The removal of on-site native vegetation shall be limited to the minimum necessary for the development of campsites, selected viewpoints or other permitted structures or facilities (see Clearing and Grading).

9. No recreational buildings or structures shall be built over water, except water-dependent and/or public access structures such as bridges or viewing platforms may be permitted as a conditional use.

10. Proposals for recreational development shall include adequate facilities for water supply, sewage and garbage disposal. Where sewage treatment facilities are not available, the appropriate reviewing authority shall limit the intensity of development to meet Town, county and state on-site sewage disposal requirements.

11. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences and signs, to prevent overflow and to protect the value and enjoyment of adjacent or nearby private properties and natural areas.

6.5 RESIDENTIAL DEVELOPMENT

6.5.1 Applicability

Residential development means one or more buildings, structures, lots, parcels, or portions thereof which are designed for and used or intended to be used to provide a place of abode for human beings, including single family residences, duplexes, and other detached dwellings, multifamily residences, apartments, townhouses, mobile home parks, other similar group housing, together with appurtenances and accessory uses ~~and structures normally applicable to residential uses~~ located landward of the OHWM, including but not limited to swimming pools, ~~garages, sheds,~~ guest cottages, fences and saunas.
Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.

Commented [BHC23]: ECOLOGY REVIEWER COMMENT, Feb 13, 2019:
Edits proposed to better differentiate between normal appurtenances and accessory uses. Garages and sheds are considered appurtenances and generally allowed as part of the primary use (see the list below) and should be addressed separately from accessory uses.

6.5.2 PERMIT EXEMPTION - Single Family Residence

A substantial development permit is not required for construction within shoreline jurisdiction by an owner, lessee or contract purchaser of a single family residence for his own use or the use of his family. However, such construction and all normal appurtenant structures must otherwise conform to this master program. An "appurtenance" means a structure that is necessarily connected to the use and enjoyment of a single family residence and includes a garage, deck, shed, driveway, utilities, fences and grading which does not exceed two hundred fifty (250) cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark (see WAC 173-27-040 (2)(g)).

6.5.3 Policies

A. Residential development should be permitted only where there are adequate provisions for utilities, circulation and access.

B. Recognizing the single purpose, irreversible and space consumptive nature of shoreline residential development, new development should provide adequate setbacks and natural buffers from the water and ample open space among structures to protect natural features, preserve views and minimize use conflicts.

C. Residential development should be designed so as to preserve shoreline aesthetic characteristics, views, and normal public use of the shoreline and the water.

D. New residential development and accessory uses should be prohibited in-/over water, in wetlands and in geologic hazard areas.

Commented [BHC24]: Checklist 2014.b
ECOLOGY REVIEWER EDIT, Feb 13, 2019

E. Residential development should be designed so as to preserve existing shoreline vegetation, control erosion, ground water supplies, drainage systems, aquatic and wildlife habitat, and protect geohydraulic processes and water quality.

F. Structures or other developments accessory to residential uses should be designed and located to blend into the site as much as possible. Accessory use and structures

should be located landward of the principal residence.

G. Residential development shall also meet the required setbacks in Chapter 8 and the Critical Areas wetland buffers in 5.07.03.5, if applicable.

6.5.4 Regulations

1. Structures or other development accessory to residential uses are allowed in the shoreline jurisdiction, subject to the provisions of the Skykomish zoning code.

2. View and vistas are currently regulated by residential height restrictions, and setbacks, as established by the Skykomish zoning code as well as by any existing covenants.

3. Residential development shall not be approved where flood control, shoreline protection measures or bulkheading will be required to create residential lots or site area. Residential development shall be located and designed to avoid the need for structural shore defense and flood protection works in the foreseeable future.

4. If wetlands or other unique and fragile features are located on a development site, clustering (or similar design) of residential units shall be required in order to avoid any development in such areas.

5. Prior to issuance of a building permit, plat or short plat or other shoreline development approval, the developer shall submit adequate plans for preservation of shore vegetation and for control of erosion and show that the development will result in no net loss of shoreline functions

6. Residential development shall be prohibited in-/over water, within floodways, wetlands and within other hazardous areas such as steep slopes and areas with unstable soils or geologic conditions.

Commented [BHC25]: Checklist 2014.b ECOLOGY REVIEWER EDIT Feb 13, 2019

7. In cases where the adjacent existing development in the area does not meet the established setback standards, single family residential structures may be setback to the average of setbacks for existing dwelling units within fifty (50) feet of side property lines. If there is only one (1) or no dwelling units within fifty (50) feet of side property lines, the one hundred (100) foot shoreline setback requirement shall apply. However, no structure will be allowed closer than forty-five (45) feet to the OHWM. Any further setback reduction beyond that allotted in this Section shall require approval of a shoreline variance application.

8. Accessory structures which are not water-dependent are prohibited waterward of the principal residence.

9. Accessory uses that are not appurtenant structures shall be reasonable in size and purpose and compatible with on-site and adjacent structures, uses and natural features (see WAC 173-27-040(2)(g)).

10. No accessory structure except swimming pools shall cover more than one hundred and fifty (150) square feet.

11. Accessory structures that are not water-dependent shall not exceed a maximum height of eight (8) feet.

6.6 TRANSPORTATION FACILITIES

6.6.1 Applicability

Transportation facilities are those structures and developments that aid in land, air, and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, bikeways, trails, railroad facilities and other related facilities. In Skykomish, these uses account for a small percentage of the shoreline land inventory. However, the impact of these facilities on shorelines can be substantial.

The various transport facilities that can impact the shoreline cut across all environmental designations and all specific use categories. The policies and regulations identified in this section pertain to any project, within any environment, that may affect some change in present transportation facilities.

6.6.2 Policies

A. New roads, railroads, and bridges in the shoreline jurisdiction should be minimized, and allowed only when related to and necessary for the support of permitted shoreline activities.

B. Expansion of or revisions to transportation facilities should be designed to minimize the need for shoreline protection measures and minimize the need to modify natural drainage systems.

C. Expansion of existing roadways should be allowed by conditional use if such facilities are found to be in the public interest.

D. Trail and bicycle paths should be encouraged along shorelines where they are compatible with the natural character, resources and ecology of the shoreline.

E. Joint use of transportation corridors within the shoreline jurisdiction for roads, utilities and motorized and non-motorized forms of transportation should be encouraged.

6.6.3 Regulations

1. New road and bridge construction in the shoreline jurisdiction shall be minimized and allowed with a shoreline conditional use permit only when related to and necessary for the support of permitted shoreline activities and will not result in a net loss of shoreline ecological functions or adversely impact existing or planned water-dependent uses.

2. Expansion of existing roadways and rail facilities shall be allowed only when the proponent obtains a conditional use permit and demonstrates that:

a. No alternative route is feasible; and

b. The roadway or rail facility is constructed and maintained to cause the least possible adverse impact on the land and water environment.

c. The roadway or rail facility is found to be in the public interest.

3. Transportation and primary utility facilities shall be required to make joint use of rights-of-way, and to consolidate crossings of water bodies to minimize adverse impacts to the shoreline.

4. Landfills for transportation facility development are prohibited in water bodies, wetlands and on accretion beaches, except when all structural and upland alternatives have been proven infeasible and the transportation facilities are necessary to support uses consistent with this master program. Such landfill may be permitted as a conditional use permit.

5. Vacating any Town road which abuts a body of fresh water unless the street or road is not currently used or suitable for boat moorage or launching site or for a park, viewpoint, recreation, education or other public purposes is PROHIBITED.

6. New construction or improvements to existing transportation facilities shall be located and designed to prevent or minimize the need for shoreline protective measures such as riprap or other bank stabilization, landfill, bulkheads, groins, jetties or substantial site grading. Transportation facilities allowed to cross over water bodies and wetlands shall utilize elevated, open pile or pier structures whenever feasible. All bridges must be built high enough to allow the passage of debris and provide three (3) feet of freeboard above the 100-year flood level.

7. Shoreline transportation facilities shall be sited and designed to avoid steep or unstable areas and fit the existing topography in order to minimize cuts and fills.

8. All transportation facilities shall be designed, constructed and maintained to contain and control all debris, overburden, runoff, erosion and sediment generated from the affected areas and to prevent its entry into any water body. Relief culverts and diversion ditches shall not discharge onto erodible soils, fills or side cast materials.

9. Cut and fill slopes shall be designed at the normal angle of repose or less for slope stability.

10. Cut, fill, and sidecast slopes shall be protected from erosion by mulching, seeding, compacting, riprapping, benching or other suitable means.

11. Waterway crossing shall be designed to provide minimal disturbance to banks.

12. Roads, railroads and other transportation facilities are prohibited over water, except to serve water-dependent or public uses consistent with this program

when inland alternatives are infeasible, including unavoidable water crossings.

6.7 UNCLASSIFIED USES AND ACTIVITIES

6.7.1 Applicability

In the event that a proposed shoreline use or activity is not identified or classified in this master program, the following regulation shall apply.

6.7.2 Regulations

All uses and activities proposed in the Skykomish Shoreline jurisdiction that are not classified by provisions in this master program shall require a conditional use permit.

6.8 UTILITIES

6.8.1 Applicability

Utilities are services and facilities that produce, transmit, store, process or dispose of electric power, gas, water, sewage, communications, oil, solid waste, and the like.

6.8.2 Policies

A. Utilities should utilize existing transportation and utility sites, rights-of-way and corridors whenever possible, rather than creating new corridors. Joint use of rights-of-way and corridors should be encouraged.

B. Utilities should be prohibited in wetlands, estuaries, critical wildlife habitats, or other unique and fragile areas unless no feasible alternatives exist.

C. New utility facilities should be located so that extensive shoreline protection is not required, and water flow and motorized and non-motorized circulation or navigation are not restricted.

D. Wherever utility facilities and corridors must be placed in a shoreline area, they should be located so as to protect scenic views. Whenever possible, such facilities should be placed underground, alongside or under bridges, or otherwise designed to minimize impacts on the aesthetic qualities of the shoreline area.

E. Utility facilities and rights-of-way should be designed to preserve the natural landscape and to minimize conflicts with present and planned land uses.

F. Solid waste disposal activities and facilities should be prohibited in shoreline areas. "Solid waste facilities" are not to be construed as storage of recyclable materials.

6.8.3 Regulations

1. Applications for installation of utility facilities shall include the following:

    a. Description of the proposed facilities;

b. Reason(s) why the utility facility requires a shoreline location;

c. Alternative locations considered and reasons for their elimination;

d. Location of other utility facilities in the vicinity of the proposed project and any plans to include the facilities of other types of utilities in the project;

e. Plans for reclamation of areas disturbed both during construction and following decommissioning and/or completion of the primary utility's useful life;

f. Plans for control of erosion and turbidity during construction and operation; and

g. Identification of any possibility for locating the proposed facility at another existing utility facility site or within an existing utility right-of-way.

2. Utility development shall, through coordination with local government agencies, provide for compatible, multiple use of sites and rights-of-way. Such uses include shoreline access points, trail systems and other forms of recreation and transportation, providing such uses will not unduly interfere with utility operations, endanger public health and safety or create a significant and disproportionate liability for the owner.

3. Utility lines shall utilize existing rights-of-way, corridors and/or bridge crossings whenever possible and shall avoid duplication and construction of new or parallel corridors in all shoreline areas. Proposals for new corridors or water crossings must fully substantiate the infeasibility of existing routes.

4. The following utility facilities, which are not essentially water-dependent, are PROHIBITED in shoreline jurisdiction unless authorized by conditional use permit and where it can be shown that no alternatives exist:

   a. Water system treatment plants;

   b. Sewage system lines, interceptors, pump stations and treatment plants;

   c. Electrical energy generating plants (except for instream structures), substations, lines and cables; and

   d. Petroleum and gas pipelines; and

   e. Telecommunication towers, cellular towers, and fiber optic cable installation.

5. The disposal of solid waste, including junk vehicles and equipment, debris and brush, is prohibited within shoreline jurisdiction.

6. New solid waste disposal sites and facilities are prohibited.

7. New utility lines including electricity, communications and fuel lines shall be located underground, except where the presence of bedrock or other obstructions make

such placement infeasible. Existing above ground lines shall be moved underground during normal replacement processes.

8. Transmission and distribution facilities shall cross areas of shoreline jurisdiction by the shortest, most direct route feasible, unless such route would cause significant environmental damage.

9. Utility facilities shall be located and designed to avoid destruction of, or damage to, important wildlife areas, and other unique and fragile areas.

10. Utility facilities requiring withdrawal of water from streams or rivers shall be located only where minimum flows as established by the Washington Department of Fisheries can be maintained.

11. Utility developments shall be located and designated so as to avoid or minimize the use of any structural or artificial shore defense or flood protection works.

12. Sites disturbed for utility installation shall be stabilized during and following construction to avoid adverse impacts from erosion.

13. Where major facilities must be placed in a shoreline area, the location and design shall be chosen so as not to destroy or obstruct scenic views.

14. Utility development shall utilize required setback areas (see Chapter 8) to provide screening of facilities from water bodies and adjacent properties. Type of screening required shall be determined by the Town on a case-by-case basis.

15. Underground (or water) utility lines shall be completely buried under the river bed in all river or stream crossings EXCEPT where such lines can be affixed to a bridge structure and EXCEPT for appropriate water or sewage treatment plant intake pipes or outfalls.

16. All underwater pipelines transporting liquids intrinsically harmful to aquatic life or potentially injurious to water quality are PROHIBITED, unless no other alternative exists. In those limited instances when permitted by conditional use, automatic shut-off valves shall be provided on both sides of the water body.

17. Construction of utilities under water or in adjacent wetlands shall be timed to avoid fish migratory and spawning periods.

18. Landfilling in shoreline jurisdiction for utility facility or line development purposes is PROHIBITED. Permitted crossings shall utilize pier or open pile techniques.

19. Power generating facilities must comply with all provisions stated in this master program (see *Instream Structures*).

20. Power generating facilities shall be a conditional use in all shoreline environments.

21. Clearing of vegetation for the installation or maintenance of utilities shall be kept to a minimum and, upon project completion, any disturbed area shall be restored as nearly as possible to pre-project conditions, including replanting with native species, or other species as approved by the Town, and maintenance care. If the previous condition is identified as being undesirable, then landscaping and other improvements should be undertaken.

22. All utility facilities are designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.

7 SHORELINE MODIFICATION POLICIES & REGULATIONS

7.1 INTRODUCTION

Shoreline Modification activities are those actions that modify the physical configuration or qualities of the shoreline area. These activities are, by definition, undertaken in support of or in preparation for a permitted shoreline use. Typically, shoreline modification activities are related to construction of a physical element such as a dike, dredged basins or fill, but they can include other actions such as application of chemicals, etc. Shoreline modification activities usually are undertaken in support of or in preparation for a shoreline "use." A single use may require several different shoreline modification activities. For example, a marina and boatyard development (a boating facility use) may involve a breakwater (a *specific* shoreline use -- an instream structure), dredging (a *modification* of the shoreline), clearing and grading (also a *modification* of the shoreline, but one for which *General* regulations apply in order to carry out the SMA) and landfill (a *modification* of the shoreline).

Shoreline Modification activity policies and regulations are intended to prevent, reduce, and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the Shoreline Management Act. A proposed development must meet all of the regulations for both applicable uses and activities as well as the general and environment designation regulations.

Policies and regulations relating to *shoreline modifications* are as follows:

- Dredging
- Fill
- Instream Structures
- Piers, Docks and Floats
- Shoreline Habitat and Natural Systems Enhancement Projects
- Shoreline Stabilization

7.2 DREDGING

7.2.1 Applicability

Dredging is the removal or displacement of earth or sediments such as gravel, sand, mud or silt and/or other materials or debris from any stream, or lake and associated shorelines, side channels, and wetlands. Dredging is normally done for specific purposes or uses such as constructing and maintaining a navigational channel, dike or drainage system repair and maintenance, or obtaining bottom material.

Dredge material is disposed of on land or into water bodies and may be intended for the purpose of creating new or additional lands for other uses. Dredge spoil varies from clean river sand to organic sludge. While some of this material is deposited on land, a

significant portion is dumped, intentionally or unintentionally, back into the water or immediately adjacent to the water.

7.2.2 Policies

A. Dredging in the Skykomish River should be prohibited, except as part of an approved restoration project.

B. Dredging for the primary purpose of obtaining fill or construction material should be prohibited.

C. In all cases, dredging operations should be planned and conducted to minimize adverse effects on aquatic habitat and other shoreline uses, properties, and values.

D. Dredging operations should be scheduled so as to not materially interfere with the movements of fish.

E. Dredging and dredge material disposal should be located and conducted in a manner that minimizes damage to existing ecological values and natural resources of the area to be dredged and of the disposal site.

F. Dredge material disposal in water bodies should be discouraged, except for habitat improvement purposes or where depositing dredge material on land would be more detrimental to shoreline resources than deposition in water areas.

G. New development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging.

7.2.3 Regulations

1. Dredging may be permitted as a conditional use activity in Skykomish.

2. Dredging waterward of the ordinary high water mark may be permitted only:

   a. As part of an approved habitat improvement or restoration project;

   b. In conjunction with a bridge, navigational structure or wastewater treatment facility for which there is a documented public need and where other feasible sites or routes do not exist.

   c. To improve water flow and/or manage flooding only when consistent with an approved flood/stormwater comprehensive management plan and only if biological and geomorphologic studies demonstrates a long-term benefit to flood hazard reduction.

3. When dredging is permitted, the extent of dredging shall be the minimum necessary to accommodate the proposed use.

4. Proposals for dredging and dredge disposal shall include details on all feasible mitigation measures to protect aquatic habitats and to minimize adverse impacts

5. Dredging and dredge disposal shall be permitted only where it is demonstrated that the proposed actions will not:

   a. Result in significant and/or ongoing damage to water quality, fish, and other essential biological elements; and

   b. Adversely alter natural drainage and circulation patterns, currents, river flows or significantly reduce flood water capacities.

6. Dredging for the primary purpose of obtaining fill or construction material is prohibited.

7. Dredging to construct moorage slips, canals, or small basins for boat moorage or launching, or swimming holes is prohibited.

8. Individual disposal operations shall comply with Department of Natural Resources leasing practices, the Department of Ecology Water Quality Certification process, and the permit requirements of the State Department of Fish and Wildlife and the U.S. Army Corps of Engineers.

9. Depositing dredge materials in water areas shall be allowed by conditional use permit only for one (1) or more of the following reasons:

   a. For wildlife habitat improvement;

   b. To correct problems of material distribution adversely affecting fish;

10. Disposal of dredge material shall be done only in approved sites.

11. Disposal of dredge material on shorelands or wetlands within the Skykomish channel migration zone shall be discouraged. In the limited instances where it is allowed, such disposal shall require a conditional use permit.

7.3 FILL

Fill is the placement of soil, sand, rock, gravel, sediment or other material (excluding solid waste) to create new land, or bottomland along the shoreline waterward of the OHWM, or on upland areas in order to raise the elevation.

7.3.1 Policies

A. Fill (in a river or wetland) should be prohibited and only allowed when necessary to support the design and construction of a shoreline restoration or environmental enhancement project

B. Shoreline fills should be designed and located so that there will be no significant damage to existing ecological systems or natural resources, and no alteration of local currents, surface and subsurface drainage, or flood waters which would result in hazard to adjacent life, property, or natural resource systems.

C. Where permitted, fill coverage should be the minimum necessary to provide for the proposed use.

D. Sanitary landfills should not be located in the shoreline jurisdiction.

7.3.2 Regulations

1. Applications for fill permits shall include the following:

   a. Proposed use of the landfill area;
   b. Physical, chemical and biological characteristics of the fill material;
   c. Source of landfill material;
   d. Method of placement and compaction;
   e. Location of fill relative to natural and/or existing drainage patterns and wetlands.
   f. Location of the fill perimeter relative to the OHWM;
   g. Perimeter erosion control or stabilization means; and
   h. Type of surfacing and runoff control devices.

2. Fills waterward of the OHWM shall be permitted as a conditional use only:

   a. In conjunction with a bridge for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist;

   b. For fisheries or wildlife enhancement or restoration projects.

   c. For water dependent uses

   d. For public access

3. Fill are permitted in conjunction with a permitted development.

4. Landfills for the disposal of hazardous or dangerous waste, municipal solid waste, special waste, inert and demolition waste, and new wood waste landfills are PROHIBITED in the shoreline area.

5. Fills are PROHIBITED in floodway, except when approved by conditional use permit and where required in conjunction with a proposed use, as specified in Regulation #2 above.

6. Speculative, sanitary and solid waste landfills are PROHIBITED.

7. Where landfills are permitted, the landfill shall be the minimum necessary to accommodate the proposed use.

8. Fill shall be permitted only where it is demonstrated that the proposed action will not:

   a. Result in significant damage to water quality, fish, aquatic habitat, and/or wildlife habitat; or

   b. Adversely alter natural drainage and circulation patterns, currents, or stream flows, or significantly reduce flood water holding capabilities.

9. Fill materials shall be clean sand, gravel, soil, rock or similar material. Use of polluted soils is prohibited. The developer shall provide evidence that the material has been obtained from a clean source prior to fill placement.

10. Refuse disposal sites, solid waste disposal sites, or sanitary fills shall be prohibited along the Skykomish River shoreline in Skykomish.

7.4 INSTREAM STRUCTURES

7.4.1 Applicability

Instream structures function for the impoundment, diversion or use of water for hydroelectric generation and transmission (including public and private facilities), flood control, irrigation, water supply (both domestic and industrial), recreational or fisheries enhancement. Both the structures themselves and their support facilities are covered by this section. This applies to their construction, operation and maintenance, as well as the expansion of existing structures and facilities.

7.4.2 Policies

A. Instream structures should provide for the protection and preservation, of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.

B. The location and planning of instream structures should give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

7.4.3 Regulations

1. Instream structures may be permitted as a shoreline conditional use.

2. Instream structures shall provide for the protection and preservation, of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas.

3. The location and planning of instream structures shall give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

7.5 PIERS, DOCKS AND FLOATS

7.5.1 Applicability

Piers and docks are structures that abut the shoreline and are used as a landing or moorage place for commercial transport or recreational watercraft. Piers are built on fixed platforms supported by piles above the water, while docks float upon the water. Floats are anchored, off-shore platforms used for water-dependent recreational activities such as swimming and diving.

In a river such as the Skykomish, overwater structures can have significant impacts on the river ecology and can exacerbate flood hazards and alter the river corridor. In addition, man-made projections into a river can pose serious threats to the safety of recreational boaters or swimmers. Currently, there are no overwater structures along the shoreline in Skykomish.

7.5.2 Regulations

All piers, docks and floats are PROHIBITED in the Skykomish shoreline jurisdiction.

7.6 SHORELINE HABITAT AND NATURAL SYSTEMS ENHANCEMENT PROJECTS

7.6.1 Applicability

Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.

7.6.2 Policies

A. The Town of Skykomish should foster habitat and natural system enhancement projects. Such projects may include shoreline modification actions such as modification of vegetation, removal of nonnative or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.

B. Projects that address legitimate restoration needs and priorities and facilitate implementation of the restoration plan developed pursuant to WAC 173-26-201 (2)(f) should be encouraged.

7.6.3 Regulations

1. Projects that address legitimate restoration needs and priorities and facilitate implementation of the Town's Shoreline Restoration Plan and Public Access Section shall be allowed.

2. Other proposed habitat enhancement or restoration projects may be allowed as a conditional use.

7.7 SHORELINE STABILIZATION

7.7.1 Applicability

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods and the enlargement of existing structures.

Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

Specific structural and nonstructural means included in this use activity are beach restoration and enhancement; soil bioengineering; riprap; bulkheads; and jetties, rock weirs, and groins. Several of these techniques are currently being used in Skykomish or are techniques that could be used to address local shoreline issues.

Hard structures, especially vertical walls, often create conditions that lead to failure of the structure. In time, the substrate of the beach coarsens and scours down to bedrock or a hard clay. The footings of bulkheads are exposed, leading to undermining and failure. This process is exacerbated when the original cause of the erosion and "need" for the bulkhead was from upland water drainage problems. Failed bulkheads and walls adversely impact beach aesthetics, may be a safety or navigational hazard, and may adversely impact shoreline ecological functions.

"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. There is a range of measures varying from soft to hard that include:

- Vegetation enhancement;
- Upland drainage control;
- Biotechnical measures;
- Beach enhancement;
- Anchor trees;
- Gravel placement;
- Rock revetments;
- Gabions;

- Concrete groins;
- Retaining walls and bluff walls;
- Bulkheads; and
- Seawalls.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

7.7.2 Policies

A. Allow structural shoreline modifications only where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.

B. Reduce the adverse effects of shoreline modifications and, as much as possible, limit shoreline modifications in number and extent.

C. Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.

D. Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.

E. Where applicable, base provisions on scientific and technical information and a comprehensive analysis of reach conditions.

F. Plan for the enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.

G. Avoid and reduce significant ecological impacts according to the mitigation sequence defined in ~~Chapter 2~~ Regulation 5.2.2.1.

7.7.3 Regulations

1. New development shall be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

2. New subdivisions shall be configured so that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics.

Commented [BHC26]: ECOLOGY REVIEW COMMENT, Feb 13, 2019
Mitigation sequencing moved to regulatory provision instead of in the definitions chapter.

3. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis.

4. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas is PROHIBITED.

5. New structural stabilization measures shall not be allowed except when necessary to protect existing primary structures.

6. Erosion control structures shall not result in a net loss of shoreline ecological functions. Mitigate new erosion control measures, including replacement structures, to avoid and, if that is not possible, to minimize adverse impacts to natural sediment transport systems.

7. New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, must be supported by a geotechnical analysis, that the primary structure is in danger from shoreline erosion. Normal shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

8. New structural stabilization measures may be allowed for new water-dependent development and non-water-dependent development, including single-family residences, when all of the following conditions apply:

    a. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.

    b. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

    c. The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report. The damage must be caused by natural processes.

9. Structural stabilization measures may be allowed to protect restoration projects or hazardous substance remediation projects pursuant to chapter 70.105D RCW when nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.

10. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion with the following conditions:

a. The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.

b. Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.

c. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.

d. "Replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

11. Geotechnical reports that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion, and report on the urgency associated with the specific situation.

12. Hard armoring solutions should not be authorized except when a geotechnical report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions.

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

14. Any structural shoreline stabilization measures demonstrated to be necessary shall:

    a. Be the minimum necessary;

    b. Use measures designed to assure no net loss of shoreline ecological functions;

    c. Use soft approaches unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.

    d. Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access to the shoreline. Access should not be provided when there are incompatible uses, safety or security issues, or potential harm to ecological functions.

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

16. All flood protection measures should be placed landward of the natural floodway boundary, including wetlands which are associated with the water body proper.

8 SHORELINE USE & ACTIVITY TABLE

SHORELINE USE and ACTIVITY	Paragraph in SMP	Aquatic	Natural	Urban Conservancy	High Intensity	Shoreline Residential
GENERAL Policies & Regulations						
General Regulations	5.02.01 5.02.02 (3) 5.02.02 (4)	All General Policies and Regulations Apply in All Environments. Shoreline modification activities not associated with a legally existing or an approved shoreline use are PROHIBITED. Shoreline uses, modification activities, and conditions listed as "prohibited" are not eligible for a shoreline variance or shoreline conditional use permit.				
SPECIFIC SHORELINE USE Policies and Regulations – Chapter 6						
P = Permit Required	This use or activity is allowed within the shoreline jurisdiction or specific shoreline environment/s listed. If it meets the definition of development it must comply with all applicable provisions of this master program; if it meets the definition of a substantial development, the project proponent must apply for a Shoreline Substantial development permit.					
C = Conditional Use	This use or activity (whether a development of a substantial development) may be allowed within the shoreline jurisdiction or specific shoreline environment listed, however, the project proponent must apply for a Conditional Use permit.					
X = Prohibited	This use or activity is not permitted in the shoreline jurisdiction the shoreline environment listed.					
X/C	Not permitted unless certain criteria are met, and then a Conditional Use permit is required.					
X/P	Not allowed unless certain criteria met, and then Shoreline Substantial Development Permit required.					
N/A	Not applicable.					
Agriculture	6.01.01	**X**	**X**	**X**	**X**	**X**
Boating Facilities	6.01.01	**X**	**X**	**X**	**X**	**X**
Commercial Development	6.02.03 (2)					
Water-dependent		**C**	**X**	**C**	**P**	**P**

SHORELINE USE and ACTIVITY	Paragraph in SMP	Aquatic	Natural	Urban Conservancy	High Intensity	Shoreline Residential
Water-related, water-enjoyment	6.02.03 (4)	C	X	C	P	P
Non-water oriented	6.02.03 (3)	X	X	X	P	C
Forest Practices	6.01.01	X	X	X	X	X
Industrial Development	6.01.01	X	X	X	X	X
Mining	6.01.01	X	X	X	X	X
Parking						
As primary use	6.03.03 (1)	X	X	X	X	X
Parking or storage of recreational vehicles or travel trailers as a primary use	6.03.03 (2)	X	X	X	X	X
As accessory use	6.03.03 (3)	X	X	C	P	P
Recreational Development						
Water-dependent and/or public access overwater structures (e.g., bridges, viewing platforms)	6.04.03 (8)	C	C	C	C	C
All other structures	6.04.03 (2)	X	X	C	P	P
Motorized vehicular access on beaches, bars, spits and stream beds.	6.04.03 (6)	X	X	X	X	X
Use of all-terrain and off-road vehicles in the shoreline area.	6.04.03 (7)	X	X	X	X	X
Non-motorized access to the shoreline such as pedestrian and bicycle paths	6.04.03 (5)	X	C	P	P	P
Residential Development						
Single Family	6.05.01	X	C	C	P	P
Duplexes		X	X	X	P	P
Multifamily (greater than 2 units)		X	X	X	P	P
Residential Development (continued)						
Development in critical areas	6.05.04 (6)	X	X	X	X	X

SHORELINE USE and ACTIVITY	Paragraph in SMP	Aquatic	Natural	Urban Conservancy	High Intensity	Shoreline Residential
Non-water-dependent accessory structures waterward of the principal residence	6.05.04 (8)	X	X	X	X	X
Transportation						
New - Related to permitted shoreline activities	6.06.03 (1)	C	X	C	C	C
Expansion of existing facilities	6.06.03 (2)	C	X	C	C	C
Landfills for transportation facilities in sensitive area, except when all alternatives have been proven infeasible	6.06.03 (4)	X	X	X	X/C	X/C
Vacating any Town road which abuts a body of fresh water (unless criteria are met).	6.06.03 (5)	X/P	X/P	X/P	X/P	X/P
Transportation facilities over water (unless meeting certain criteria met)	6.06.03 (12)	X/P	X/P	X/P	X/P	X/P
Unclassified Uses and Activities	6.07.02	C	C	C	C	C
Utilities						
Utility lines using existing rights-of-way, corridors and/or bridge crossings	6.08.03 (3)	P	P	P	P	P
Utility facilities, which are not essentially water-dependent, unless it can be shown that no alternatives exist	6.08.03 (4)	X/C	X/C	X/C	X/C	X/C
New solid waste disposal sites and facilities, and the disposal of solid waste, including junk vehicles and equipment, debris and brush	6.08.03 (5)	X	X	X	X	X
Underwater pipelines transporting liquids harmful to aquatic life or water quality, unless no alternatives exist.	6.08.03 (16)	X/C	X/C	X/C	X/C	X/C
Land filling for utility facility or line development purposes	6.08.03 (19)	X	X	X	X	X
SHORELINE MODIFICATION Policies and Regulations – Chapter 7						
Dredging						
Dredging and dredge deposition in compliance with SMP provisions	7.02.03 (1)	C	C	C	C	C

SHORELINE USE and ACTIVITY	Paragraph in SMP	Aquatic	Natural	Urban Conservancy	High Intensity	Shoreline Residential
Dredging to obtain fill or construction material	7.02.03 (6)	X	X	X	X	X
Dredging to construct moorage or swimming holes	7.02.03 (7)	X	X	X	X	X
Deposition of dredge materials in water areas	7.02.03 (9)	C	C	C	C	C
Fill						
Fill in conjunction with a permitted development	7.03.02 (3)	P	P	P	P	P
Fill waterward of OHWM	7.03.02 (2)	C	C	C	C	C
Fills in floodway	7.03.02 (5)	X/C	X/C	X/C	X/C	X/C
Speculative fills	7.03.02 (6)	X	X	X	X	X
Refuse or solid waste disposal sites or sanitary fills	7.03.02 (10)	X	X	X	X	X
Instream Structures	7.04.03 (1)	C	C	C	C	C
Piers, Docks & Floats	7.05.02	X	X	X	X	X
Shoreline Habitat and Natural Systems Enhancement	7.06.03 (1)	P	P	P	P	P
Shoreline Stabilization						
New development that requires shoreline stabilization	7.07.03 (1)	C	X	C	C	C
New structural stabilization measures	7.07.03 (5), (8)	X/C	X/C	X/C	X/C	X/C
Structural stabilization measures to protect restoration projects or hazardous substance remediation projects	7.07.03 (9)	C	C	C	C	C
Shoreline Stabilization (continued)						
An existing shoreline stabilization structure may be replaced to protect principal uses or structures	7.07.03 (10)	C	C	C	C	C

SHORELINE USE and ACTIVITY	Paragraph in SMP	Aquatic	Natural	Urban Conservancy	High Intensity	Shoreline Residential
General Site Development Standards						
Percent of shoreline setback area that must be left undisturbed	5.04.04 (3)	N/A	100%	85% up to <30 ft per lot parcel		
Density		Per underlying Zoning District SMC 18.15.020				
Use-related Development Standards						
Commercial Development Setback from OHWM:						
Water dependent, setback		0'	N/A	0'	0'	0'
Water-related, water-enjoyment setback		0'	N/A	100'	75'	45'
Non-water-oriented setback		N/A	N/A	N/A	100'	100'
Building height limit		N/A	N/A	15'	50’	35'
Recreational Development Setback from OHWM:						
Non-water-oriented setback		N/A	N/A	100'	100'	100'
Campsites, picnic areas, related		N/A	N/A	75’	50’	50'
Access roads, restrooms, & accessory structures		N/A	N/A	75'	50'	50'
Parking areas		N/A	N/A	150'	100'	75'
Golf course, sports field, intensive use area		N/A	N/A	100'	100'	100'
Height limit		N/A	N/A	15'	35’	35’
Residential Development Setback from OHWM:						
Single family dwelling units		N/A	100’	100’	100’	100'
Duplex & multifamily dwelling units		N/A	N/A	N/A	100'	100'
Parking areas		N/A	150'	150'	100'	75'

SHORELINE USE and ACTIVITY	Paragraph in SMP	Aquatic	Natural	Urban Conservancy	High Intensity	Shoreline Residential
Small scale, noncommercial gardening		N/A	100'	50'	25'	25'
Livestock		N/A	N/A	N/A	25'	25'
Height limits		N/A	35'	35'	35'	35'
Signs						
Maximum height		N/A	(note)	(note)	25'	25'
Maximum surface area (sq. ft.)		N/A	2	2	2	2
Transportation Facilities						
Setback from OHWM:						
Non-arterial, secondary access roads		N/A	200'	100'	75'	75'
Arterials, highways, railroad		N/A	200'	200'	75'	100'
Non-water-oriented		N/A	200"	200'	100'	100'
Utilities						
Setback from OHWM:						
Buildings, distribution lines		N/A	N/A	100'	75'	75'
Height limits:						
Buildings, storage tanks, accessory uses		N/A	N/A	15'	35'	35'
Distribution poles, towers		35'	35'	35'	35'	35'

NOTES:
No higher than existing permitted structure it is attached to.

9 ADMINISTRATION

9.1 INTRODUCTION

9.1.1 Any person wishing to undertake a development within the Skykomish shoreline jurisdiction shall apply to the Town for a shoreline permit. Based on the provisions of this Master Program, the Administrator shall determine if a substantial development permit, a shoreline conditional use permit, and/or a shoreline variance is required.

9.1.2 All proposed uses and development occurring within the Town's shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this master program whether or not a permit is required.

9.1.3 General Development Review Regulations:

1. No authorization to undertake use or development on shorelines shall be granted by the Town unless the use or development is determined to be consistent with the review criteria of WAC 173-27-140.

2. A substantial development permit shall be granted only when the development proposed is consistent with review criteria of WAC 173-27-150.

3. All exempt projects must obtain a letter of exemption consistent with WAC 173-27-050.

4. Conditional use and variance permits, in addition to Town approval, require review and approval by Ecology consistent with WAC 173-27-200.

9.2 SHORELINE ADMINISTRATOR

9.2.1 The Mayor or the Mayor's Designee is hereby vested with:

1. Overall responsibility for administering the Shoreline Management Act and this Master Program;

2. Authority to approve, approve with conditions, or deny shoreline substantial development permits and permit revisions in accordance with the policies and provisions of this Master Program; and

3. Authority to grant statements of exemption from shoreline substantial development permits.

9.2.2 The duties and responsibilities of the Administrator shall include:

1. Preparing and using application forms deemed essential for the administration of this program.

2. Advising interested citizens and applicants of the goals, policies, regulations, and procedures of this program.

3. Making administrative decisions and interpretations of the policies and regulations of this program and the Shoreline Management Act. The Administrator is required to consult with the Department of ecology to ensure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and applicable guidelines.

4. Collecting applicable fees, as established by the Town.

5. Determining that all applications and necessary information and materials are provided.

6. Conducting field inspections, as necessary.

7. Reviewing, insofar as possible, all provided and related information deemed necessary for appropriate applications needs.

8. Determining if a shoreline substantial development permit, conditional use permit or variance permit is required.

9. Providing copies of permit applications to relevant staff and agencies for review and comment.

10. Conducting a thorough review and analysis of shoreline substantial development permit applications; reviewing other staff and agency comments; making written findings and conclusions; and approving, approving with conditions, or denying such permits.

11. Submitting variance and conditional use permit applications and written recommendations and findings on such permits to the Planning Commission for their consideration and action.

12. Assuring that proper notice is given to appropriate persons and the public for all hearings.

13. Providing technical and administrative assistance to the Planning Commission as required for effective and equitable implementation of this program and the Act.

14. Investigating, developing, and proposing amendments to this program as deemed necessary to more effectively and equitably achieve its goals and policies.

15. Seeking remedies for alleged violations of this program, the provisions of the Act and this Master Program, or of conditions of any approved shoreline permit issued by the Town of Skykomish.

16. Acting as the primary liaison between local and state agencies in the administration of the Shoreline Management Act and this Master Program.

17. Forwarding shoreline permits to the Department of Ecology for filing or action.

9.3 SKYKOMISH PLANNING COMMISSION

9.3.1 The Skykomish Planning Commission is vested with authority to:

1. Consider, through advertised public hearings or other means, all pertinent data, testimony, correspondence, findings, evaluations, recommendations, and conditions related to any application for a shoreline permit.

2. Accept or reject any recommendation and/or condition(s), or portion thereof, or develop any additional or new condition(s), and thereupon take action to recommend the granting or denial of applications for permits with respect to compliance with the Shoreline Management Act and this Master Program.

3. Seek remedies for either violations of the Shoreline Management Act and this Master Program, or for noncompliance with conditions for any approved permit issued by the Town of Skykomish.

4. Act as an appeals board to adjudicate grievances brought forth by a person regarding administrative decisions or interpretations associated with the Shoreline Management Act and this Master Program.

5. Consider, through advertised public hearings or meetings, all pertinent data, testimony, correspondence, findings, and recommendations related to any proposed adjustments to this Master Program.

6. Accept or reject any recommendations or portion thereof and thereupon take action to adopt or not adopt any proposed adjustments to this Master Program.

9.4 EXEMPTIONS FROM THE SHORELINE MANAGEMENT ACT

9.4.1 Pursuant to state law WAC 173-27-045, certain developments are not subject to the Shoreline Management Act as follows:

1. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045 and RCW 43.21K.

2. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to Chapter 80.50 RCW.

9.5 EXEMPTIONS FROM LOCAL PERMIT REVIEW

9.5.1 Pursuant to state law WAC 173-27-044, requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption or other review to implement the Shoreline Management Act do not apply to the following:

1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order or agreed order issued pursuant to Chapter 70.105D RCW, or the Department of Ecology when it

conducts a remedial action under Chapter 70.105D RCW.

2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for stormwater treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system stormwater general permit.

3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption or other local review.

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9.6 SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT EXEMPTIONS

9.6.1 Application and interpretation of exemptions:

1. Exemptions shall be narrowly construed: only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the substantial development permit process.

2. An exemption from the substantial development permit process is not an exemption from compliance with the act or this master program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this master program and the Shoreline Management Act. A development or use that is listed as a conditional use pursuant to the provisions of the master program, or is an unlisted (unclassified) use, must obtain a conditional use permit even though the development or use does not require a substantial development permit. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development or use can only be authorized by approval of a variance.

3. The burden of proof that a development or use is exempt from the permit process is on the applicant.

4. If any part of a proposed development is not eligible for exemption, then a substantial development permit is required for the entire proposed development project.

5. Local governments may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the act and the local master program.

9.6.2 Exemptions

The following developments shall not require substantial development permits (WAC 173-27-040). Some of the items listed below are prohibited in the Skykomish shoreline jurisdiction.

Note: EXEMPTION FROM SUBSTANTIAL DEVELOPMENT PERMIT REQUIREMENTS DOES NOT CONSTITUTE EXEMPTION FROM THE POLICIES AND USE REGULATIONS OF THE SHORELINE MANAGEMENT ACT; THE PROVISIONS OF THIS MASTER PROGRAM; AND OTHER APPLICABLE TOWN, STATE OR FEDERAL PERMIT REQUIREMENTS.

1. Any development of which the total cost or fair market value, whichever is higher, does not exceed ~~$5,718~~ the substantial development threshold of $7,047 or as adjusted by the state OFM, if such development does not materially interfere with the normal public use of the water or shorelines of the state. For the purposes of determining whether a permit is required, the total cost or fair market value of the development shall be determined based on the value of any donated, contributed, or found labor, equipment or materials (see WAC 173-27-040(2)(a) for adjustments to dollar threshold);

2. Normal maintenance or repair of existing structure or developments, including damage by accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition, including, but not limited to, its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction except where repair causes substantial adverse effects to shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including, but not limited to its size, shape, configuration, location, and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;

3. Construction of the normal protective bulkhead common to single family residences. A "normal protective" bulkhead is constructed at or near the ordinary high water mark to protect a single family residence and is for protecting land from erosion, or for the purpose of creating land. Where an existing bulkhead is being replaced, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings;

4. Emergency construction necessary to protect property from damage by the elements. An "emergency" is an unanticipated and imminent threat to public health, safety, or the environment which requires immediate action within a time too short to allow full compliance with the Act or this Master Program. Emergency construction does not include development of new protective structures where none previously existed. Where new protective structures are deemed by the administrator to be the appropriate means to address the emergency situation, upon abatement of the emergency situation, the new structure shall be removed and any permit which would have been required, absent an emergency (pursuant to Chapter 90.58 RCW, the applicable WAC, and this master program), obtained. All emergency construction shall be consistent with the policies of Chapter 90.58 RCW and this master program. As a general matter, flooding or other seasonal events that can be anticipated and may occur but are not imminent are not an

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emergency.

5. Construction by an owner, lessee, or contract purchaser of a single family residence for his or her own use or for the use of his or her family, which residence does not exceed a height of thirty-five (35) feet above average grade level and meets all requirements of the state agency or local government having jurisdiction thereof. "Single family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage, deck, driveway, utilities, fences, installation of a septic tank and drain field, and grading which does not exceed two hundred fifty (250) cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark. Local circumstances may dictate additional interpretations of normal appurtenances which shall be set forth and regulated within the applicable master program. Construction authorized under this exemption shall be located landward of the ordinary high water mark.

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

7. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on June 4, 1975, which were created, developed, or utilized primarily as part of an agricultural drainage or diking system.

~~8. Any project with a certification from the governor pursuant to Chapter 80.50 RCW.~~

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Moved to 9.4.1 Exemptions from the Shoreline Management Act
Subsequent items renumbered

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

   a. The activity does not interfere with the normal public use of the surface waters;

   b. The activity will have no significant adverse impact on the environment, including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;

   c. The activity does not involve the installation of any structure, and upon completion of the activity, the vegetation and land configuration of the site are restored to conditions existing before the activity;

   d. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and

   e. The activity is not subject to the permit requirements of RCW 90.58.550.

9. The process of removing or controlling aquatic noxious weeds, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable

to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under Chapter 43.21C.RCW.

10. Watershed restoration projects as defined herein. Local government shall review the projects for consistency with the shoreline master program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving a complete application form from the applicant. No fee may be charged for accepting and processing applications for watershed restoration projects as used in this section.

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

        i. A project that involves less than ten (10) miles of stream reach, in which less than twenty-five (25) cubic yards of sand, gravel, or soil is removed, imported, disturbed or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;

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

        iii. A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fisher resource available for use by all of the citizens of the state, provided that nay structure, other than a bridge or culvert or instream habitat enhancement structure associated with the project, is less than two hundred (200) square feet in floor area and is located above the ordinary high water mark of the stream.

    b. "Watershed restoration plan" mean a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the State Environmental Policy Act;

11. A public or private project, the primary purpose of which is to improve fish or wildlife habitat or fish passage, when all of the following apply:

    a. The project has been approved in writing by the department of fish and wildlife as necessary for the improvement of the habitat or passage and appropriately designed and sited to accomplish the intended purpose;

b. The project has received hydraulic project approval by the department of fish and wildlife pursuant to chapter 75.20 RCW; and

c. The local government has determined that the project is consistent with the local shoreline master program. The local government shall make such determination in a timely manner and provide it by letter to the project proponent.

See WAC 173-27-040(2)(p) for requirements of fish habitat enhancement projects to be consistent with this shoreline master program.

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

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9.6.3 Before determining that a proposal is exempt, the Administrator may conduct a site inspection to ensure that the proposal meets the exemption criteria. The exemption granted may be conditioned to ensure that the activity is consistent with the Master Program and the Shoreline Management Act.

~~Hazardous substance remedial actions. The procedural requirements of chapter 90.58 RCW shall not apply to a project for which a consent decree, order or agreed order has been issued pursuant to 70.105D RCW or to the department of ecology when a remedial action under chapter 70.105D RCW. The department shall, in consultation with the appropriate local government, assure that such projects comply with the substantive requirements of chapter 90.58 RCW, chapter 173-26 WAC and the local master program.~~

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Moved to 9.5.1, Exemptions from Local Permit Review

9.6.4 Whenever a development falls within the exemption criteria outlined in ~~the~~ 9.0~~6~~4.0~~2~~3~~ and~~ the development is subject to a U.S. Army Corps of Engineers Section 10 or Section 404 Permit, the Administrator shall prepare a Statement of Exemption, and transmit a copy to the applicant and the Washington State Department of Ecology. Exempt development as defined herein shall not require a substantial development permit, but may require a conditional use permit, variance and/or a Statement of Exemption.

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9.7 PERMIT APPLICATION

Any person(s) who wishes to conduct substantial development within the geographical jurisdiction of this Master Program shall apply to the Town of Skykomish through the Administrator for a shoreline permit. A shoreline permit is considered the last governmental approval prior to construction or issuance of a building permit. If a proposal involves other governmental approvals, as in a rezone, these other issues shall be resolved prior to final action on a shoreline permit application.

The applicant must complete the necessary application forms provided by the Administrator for shoreline substantial development, conditional use and variance permits, in accordance with WAC 173-27-180.

9.7.1 A completed application and documents for all shoreline permits shall be submitted to

the Administrator for processing and review. Any deficiencies in the application or document shall be corrected by the applicant prior to further processing.

9.7.2 Application fees in an amount established by ordinance shall be paid to the Town of Skykomish at the time of the application.

9.7.3 Application

The owner of the subject property or the authorized agent(s) of the owner is encouraged to have a pre-application meeting with the Shoreline Administrator and/or his or her staff to determine the need for a Substantial Development Permit. If needed, the applicant may apply for a Substantial Development Permit by submitting to the Shoreline Administrator a Shoreline Substantial Development Permit application using the Joint Aquatic Resource Permit Application (JARPA) form provided by the City and accompanied by applicable fees, and any other information requested by the Shoreline Administrator. A completed application for a Substantial Development Permit shall, at a minimum, contain the following information and diagrams:

1. The name, address and phone number of the applicant. The applicant should be the owner of the property or the primary proponent of the project and not the representative of the owner or primary proponent.

2. The name, address and phone number of the applicant's representative if other than the applicant.

3. The name, address and phone number of the property owner, if other than the applicant.

4. Location of the property. This shall, at a minimum, include the property address and identification of the section, township and range to the nearest quarter, quarter section or latitude and longitude to the nearest minute. All applications for projects located in open water areas away from land shall provide a longitude and latitude location.

5. Identification of the name of the shoreline (water body) that the site of the proposal is associated with. This should be the water body from which jurisdiction of the act over the project is derived (e.g. Puget Sound).

6. A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.

7. A general description of the property as it now exists including its physical characteristics and improvements and structures.

8. A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.

9. A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:

a. The boundary of the parcel(s) of land upon which the development is proposed.

b. The ordinary high water mark of all water bodies located adjacent to or within the boundary of the project. This may be an approximate location provided, that for any development where a determination of consistency with the applicable regulations requires a precise location of the ordinary high water mark the mark shall be located precisely and the biological and hydrological basis for the location as indicated on the plans shall be included in the development plan. Where the ordinary high water mark is neither adjacent to or within the boundary of the project, the plan shall indicate the distance and direction to the nearest ordinary high water mark of a shoreline.

c. Existing and proposed land contours. The contours shall be at intervals sufficient to accurately determine the existing character of the property and the extent of proposed change to the land that is necessary for the development. Areas within the boundary that will not be altered by the development may be indicated as such and contours approximated for that area.

d. A delineation of all wetland areas that will be altered or used as a part of the development.

e. A general indication of the character of vegetation found on the site.

f. The dimensions and locations of all existing and proposed structures and improvements including but not limited to; buildings, paved or graveled areas, roads, utilities, septic tanks and drainfields, material stockpiles or surcharge, and stormwater management facilities.

g. Where applicable, a landscaping plan for the project.

h. Where applicable, plans for development of areas on or off the site as mitigation for impacts associated with the proposed project shall be included and contain information consistent with the requirements of this section.

i. Quantity, source and composition of any fill material that is placed on the site whether temporary or permanent.

j. Quantity, composition and destination of any excavated or dredged material.

k. A vicinity map showing the relationship of the property and proposed development or use to roads, utilities, existing developments and uses on adjacent properties.

l. Where applicable, a depiction of the impacts to views from existing residential uses and public areas.

10. Copy of completed SEPA environmental checklist, declaration of non-significance or environmental impact statement, if required. Note that if the environmental review has not occurred prior to application for a Shoreline Permit, the time period for application review may be extended.

11. The names, addresses and legal description for each parcel of property within three hundred (300) feet of the exterior boundary of the subject property as shown by the records of the King County Assessor.

12. Other information, plans, data and diagrams as required by the Shoreline Administrator.

9.7.4 Within 28 days of receipt of the application and fee, the Town of Skykomish shall provide the applicant with a Letter of Completeness in accordance with SMC 19.05.040.

9.7.5 Posting and Publishing

1. Within fourteen (14) days from issuing a letter of completeness, the Administrator shall issue a notice of development application in accordance with SMC 19.07.010.

2. The public comments period for all Shoreline permits shall be at least 30 days.

3. For shoreline permits, the administrator shall:

   a. Mail notice of the proposed project and public hearing, if required, to all real property owners of record within three hundred (300) feet of the boundaries of the property involved in the application; and

   b. Post notice of the proposed project and public hearing, if required, on the property upon which the project is to be constructed; and

   c. Publish notification of the pending action and public hearing, if required, in the official newspaper if one has been designated or a newspaper of general circulation in the town

   d. Provide timely notification to individuals, organizations and agencies that request such notice in writing and notify all agencies with jurisdiction per chapter 43.21C RCW. Application Review - Administrator Action:

4. The burden of proving that a proposed development is consistent with the approval criteria and Master Program policies and regulations rests with the applicant.

5. The Administrator shall make recommendations in the case of variance and conditional use permits and decisions in the case of substantial development permits, or requests for revisions to approved permits pursuant to section 9.0~~8~~6 in this chapter.

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9.7.6 Planning Commission Review:

1. At least one (1) advertised public hearing shall be held by the Planning Commission regarding applications for permits where:

   a. The proposal involves a variance;

b. The proposal involves a conditional use;

c. The proposal involves an appeal of the Administrator decision on a substantial development permit or exemption; or

d. The Administrator or the Town Council determines that the proposed development is one of public significance and/or would have a significant impact upon the shoreline environment.

2. The public hearing should be held at the earliest possible date after the thirty (30) day public comment period has ended.

3. A written notice of the public hearing at which the Planning Commission considers the application shall be mailed or delivered to the applicant a minimum of five (5) days prior to the hearing.

4. The Planning Commission shall review applications for conditional use permits, variances and appeals of substantial development permits and exemption decisions based upon any or all of the following:

a. The application.

b. Applicable SEPA documents, Shoreline Management Act regulations, Shoreline Master Program provisions and local land use regulations.

c. Evidence presented at the public hearing.

d. Written and oral comments from interested persons.

e. The findings, conclusions, recommendations or decision of the Administrator.

5. The Planning Commission shall vote to recommend approval, approval with conditions, or denial of the conditional use or variance applications. This shall be an advisory decision that shall be passed on to the Skykomish Town Council, along with a written statement providing the Board's findings of fact and conclusions pertaining to the application.

6. The Planning Commission shall hear appeals of substantial development permits and exemption decisions and make a decision to recommend approval or denial of the appeal. This shall be an advisory decision that shall be passed on to the Skykomish Town Council, along with a written statement providing the Board's findings of fact and conclusions pertaining to the appeal.

9.7.7 Town Council Review

1. The Skykomish Town Council, or their designated Hearing Examiner shall make the final decision at the local level for conditional use and variance applications and appeals of substantial development permits and exemption decisions.

2. The Skykomish Town Council, or their designated Hearing Examiner, shall review the findings and conclusions prepared by the Planning Commission and make the final

decision to approve, approve with conditions, or deny the permit application. The Town Council may choose to take additional public testimony.

3. The Skykomish Town Council, or their designated Hearing Examiner, shall review the findings and conclusions prepared by the Planning Commission and make the final the decision to approve or deny any appeals of substantial development permits and exemption decisions. The Town Council may choose to take additional public testimony.

4. The decisions of the Town Council shall be the final decision of the Town of Skykomish on all applications, unless appealed, and the Town Council shall render a written decision including finding, conclusions, and a final order, and transmit copies of the decision within eight (8) days of the Town Council final decision to the following:

   a. The applicant;
   b. The Washington State Department of Ecology;
   c. The Washington State Attorney General;
   d. Interested parties; and
   e. Appellants.

9.7.8 Washington State Department of Ecology Review

All shoreline permits acted upon locally, including those denied, shall be filed with the Department of Ecology after all local permit administrative appeals or reconsideration periods are complete and the permit documents are amended to incorporate any resulting changes. The Town will mail the permit using return receipt requested mail to the Department of Ecology regional office and the Office of the Attorney General. Projects that require both conditional use permits and/or variances shall be mailed simultaneously with any substantial development permits for the project. ~~-~~Ecology ~~shall approve, approve with conditions, or deny~~ has final authority on all shoreline conditional use permits and shoreline variances approved by the Town, and filing shall be pursuant to the following procedures.

1. The permit and documentation of the final local decision will be mailed together with the complete permit application; a findings and conclusions letter; a permit data form (cover sheet); and applicable SEPA documents.

2. Consistent with RCW 90.58.140(6), the state's Shorelines Hearings Board twenty-one (21) day appeal period starts with the day of filing, which is defined below:

   a. For projects that only require a substantial development permit: the date that Ecology receives the Town's decision.

   b. For a conditional use permit or variance: the date that Ecology's decision on the conditional use permit or variance is transmitted to the applicant and the Town.

   c. For substantial development permits simultaneously mailed with a conditional use permit or variance to Ecology: the date that Ecology's decision on the conditional use permit or variance is transmitted to the applicant and the Town.

Commented [BHC34]: Checklist 2017.d

~~1. Ecology's decision must be made within thirty (30) days of the date the permit or variance and other information required by WAC 173-14-090 or its successor are received by Ecology and the Washington State Attorney General.~~

9.7.9 Special procedures for WSDOT projects

1. Permit review time for projects on a state highway. Pursuant to RCW 47.01.485, the Legislature established a target of 90 days review time for local governments.

~~1.~~2. Optional process allowing construction to commence twenty-one days after date of filing. Pursuant to RCW 90.58.140, Washington State Department of Transportation projects that address significant public safety risks may begin twenty one days after the date of filing if all components of the project will achieve no net loss of shoreline ecological function.

Commented [BHC35]: ECOLOGY REVIEWER COMMENT, Feb 13, 2019:
Ecology's permit review obligations are determined by statue/rules, so we don't encourage local SMPs to include language such as "Ecology must/shall." Also, WAC 173-14-090 is an outdated reference.

Commented [BHC36]: ECOLOGY REVIEWER EDITS, Feb 13, 2019
Ecology proposes these edits to be consistent with the 90-day target adopted by Legislature in 2015.

Edits are optional.

(Subsequent sections renumbered)

9.7.10 Performance Bonds

To guarantee that conditions imposed in conjunction with permit approval are completed, the Town may require the applicant to post a performance bond in an amount satisfactory to the Town. Any such bond shall be from a reputable bonding company in a form acceptable to the Town Attorney.

9.7.11 Commencement of Activity

If a permit is approved, the applicant or any other party authorized to conduct activities or uses by the decision shall not begin construction, development, or any authorized use or activity until after the twenty-one (21) day appeal period is over and any appeals concluded. Construction or use may occur during the time a court appeal is underway *provided*: (1) the permit was approved by the local government and the State of Washington Shorelines Hearing Board and (2) permission is granted for the construction, use or activity under RCW 90.58.140(5)(b) or its successor.

9.7.12 Duration of Permits

The following time requirements shall apply to all permits:

1. Substantial progress toward completion of a permitted activity shall be undertaken within two (2) years after the effective date of the permit by local government. Substantial progress shall include all of the following where applicable: the making of contracts; signing of notice to proceed; completion of grading and excavation; and the laying of major utilities; or, where no construction is involved, commencement of the activity: *provided* that the Town may authorize a single extension before the end of the time limit, with prior notice to parties of record and the Department of Ecology, for up to one (1) year based on reasonable factors.

2. Permit authorization shall terminate within five (5) years after the effective date of the permit: *provided*, that the Town may authorize a single extension before the end of the time limit, with prior notice to parties of record and the Department of Ecology, for up to one (1) year based on reasonable factors.

3. The running of a permit time period shall not include the time during which an activity was not actually pursued due to the pendency of reasonably related

administrative appeals or litigation or due to the need to obtain any other government permits or approvals for the development that authorize the development to proceed, including all reasonably related administrative or legal actions on any such permits or approvals.

4. When permit approval is based on conditions, such conditions shall be satisfied prior to occupancy or use of a structure or prior to commencement of a nonstructural activity: provided, that an alternative compliance limit may be specified in the permit.

5. Revisions to permits under WAC 173-27-100 may be authorized after original permit authorization has expired under subsection (b) of this section: provided, that this procedure shall not be used to extend the original permit time requirements or to authorize substantial development after the time limits of the original permit.

6. The Town of Skykomish shall notify the Department of Ecology in writing of any change to the effective date of a permit, as authorized by this section, with an explanation of the basis for approval of the change. Any change to the time limits of a permit other than those authorized by this section shall require a new permit application.

9.8 REVISION OF PERMITS

9.8.1 When an applicant wishes to revise a permit, the applicant must submit detailed plans and text describing the proposed changes. If the Administrator determines that the revisions proposed are within the scope and intent of the original permit, consistent with WAC 173-27-100, the Administrator may approve the revision. "Within the scope and intent of the original permit" means all of the following:

1. No additional overwater construction is involved;

2. Ground area coverage and height is not increased more than ten (10) percent;

3. Additional structures do not exceed a total of two hundred-fifty (250) square feet;

4. The revision does not authorize development to exceed height, setback, lot coverage, or any other requirement of the Master Program, except as authorized under a variance granted as the original permit or a part thereof;

5. Additional or revised landscaping is consistent with conditions (if any) attached to the original permit;

6. The use authorized pursuant to the original permit is not changed; and

7. No adverse environmental impact will be caused by the project revision.

9.8.2 If the sum of the proposed revision and any previously approved revisions do not meet the criteria above, an application for a new shoreline permit must be submitted. If the revision involves a conditional use or variance which was conditioned by the Department of Ecology, the revision also must be reviewed and approved by the

Department of Ecology.

9.8.3 The revision approval, including the revised site plans and text (consistent with the provisions of WAC 173-27-180, as necessary to clearly indicate the authorized changes), and the final ruling on consistency with this section shall be filed with the Department of Ecology. In addition, the Town shall notify parties of record of their action.

9.8.4 If the revision to the original permit involves a conditional use or variance, the Town shall submit the revision to the Department of Ecology for their approval, approval with conditions, or denial, and shall indicate that the revision is being submitted under the requirements of the WAC 173-27-100. The Department of Ecology shall render and transmit to the Town and the applicant its final decision within fifteen (15) days of its receipt of the submittal from the Town. The Town shall notify parties of record of the Department of Ecology's final decision.

9.8.5 The revised permit is effective immediately upon final action by local government or, when appropriate under 9.0~~8~~6.04, upon final action of the Department of Ecology.

Commented [BHC37]: Reference changed

9.8.6 A Skykomish Planning Commission, Town Council, or Department of Ecology decision on revision to the permit shall be appealed within twenty-one (21) days of such decision, in accordance with RCW 90.58.180 and WAC 173-27-100.

9.9 LOCAL APPEALS

Any decision made by the Administrator on a substantial development permit, Master Program policy or regulation interpretation, permit revision, or other action within the responsibility of the Administrator, may be appealed by the applicant, private or public organization, or individual to the local Planning Commission within ten (10) calendar days following the issuance of a written decision by the Administrator, or otherwise becomes effective. Such appeals shall be initiated by filing with the Administrator a notice of appeal setting forth the action being appealed and the principal points upon which the appeal is based, together with a filing fee as prescribed by ordinance.

9.10 APPEAL TO THE STATE SHORELINE HEARINGS BOARD

Any person aggrieved by the granting or denying of a substantial development permit, variance, or conditional use permit, or by the rescinding of a permit pursuant to the provisions of this Master Program, may seek review from the State of Washington Shorelines Hearing Board by filing a request for the same within thirty (30) days of ~~receipt of the final order~~ the date of filing and by concurrently filing copies of such request with the Department of Ecology and the Attorney General's office. State Hearings Board regulations are provided in RCW 90.58.180 and Chapter 461-08 WAC. A copy of such appeal notice shall also be filed with the Skykomish Town Shoreline Administrator.

Commented [BHC38]: Checklist 2017.d

9.11 VARIANCES AND CONDITIONAL USES PERMITS

These provisions should be applied in a manner which, while protecting the environment, will assure that a person will be able to use his/her property in a fair and equitable manner.

9.11.1 Variances:

The purpose of a variance permit is strictly limited to granting relief to specific bulk dimensional, or performance standards set forth in the Master Program, and where there are extraordinary or unique circumstances relating to the property such that the strict implementation of the Master Program would impose unnecessary hardships on the applicant or thwart the SMA policies as stated in RCW 90.58.020.

Construction pursuant to this permit shall not begin nor can construction be authorized except as provided in RCW 90.58.020. In all instances, extraordinary circumstances shall be shown, and the public interest shall suffer no substantial detrimental effect.

1. Application:

   a. An application for a Shoreline variance shall be submitted on a form provided by the Town accompanied by maps, completed environmental checklist, applicable fees, and any other information specified in this Master Program or requested by the Administrator.

   b. Plans shall clearly indicate where development could occur without approval of a variance, the physical features and circumstances on the property that provide a basis for the request, and the location of adjacent structures and uses.

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

   a. That the strict requirements of the bulk, dimensional, or performance standards set forth in the Master Program preclude or significantly interfere with a reasonable use of the property not otherwise prohibited by the Master Program.

   b. That the hardship described above (in 2.a) is specifically related to the property and is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program and not, for example, from deed restrictions or the applicant's own actions.

   c. That the design of the project will be compatible with other permitted activities within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse effects to adjacent properties or the shoreline environment.

   d. That the requested variance does not constitute a grant of special privilege not enjoyed by the other properties in the area and is to be the minimum necessary to afford relief.

   e. That the variance requested is the minimum necessary to afford relief; and

f. That the public interest will suffer no substantial detrimental effect.

3. Variance permits for development that will be located either waterward of the ordinary high water mark (OHWM) as defined in RCW 90.58.030(2)(c), or within any wetland as defined in RCW 90.58.030(2)(h), may be authorized provided the applicant can demonstrate all the criteria stated above as well as the following:

   a. That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the property;

   b. That the proposal is consistent with the criteria established under subsection 2.b through 2.f of this section.

   c. That the public rights of navigation and use of the shorelines will not be adversely affected by granting the variance.

4. In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if variances were granted to other development in the area where similar circumstances exist, the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

5. Requests for varying the use to which a shoreline area is to be put are not requests for variances but rather requests for conditional use permits and should be evaluated based on the criteria established for these requests.

9.11.2 Conditional Uses:

The purpose of a conditional use permit is to allow greater flexibility in varying the application of the use regulations of the Master Program in a manner consistent with the policies of RCW 90.58.020; *provided*, that conditional use permits should also be granted in a circumstance where denial of the permit would result in a thwarting of State Policy enumerated in RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by the Town of Skykomish or the Department of Ecology to prevent undesirable effects of the proposed use.

1. Uses which are classified or set forth as conditional uses may be authorized, *provided* the applicant can demonstrate all of the following:

   a. That the proposed use is consistent with the policies of RCW 90.58.020 and the policies of the Master Program;

   b. That the proposed use will not interfere with the normal public use of public shorelines;

   c. That the proposed use of the site and design of the project is compatible with other permitted uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;

   d. That the proposed use will cause no significant adverse effects to the shoreline

environment in which it is to be located; and

e. That the public interest suffers no substantial detrimental effect.

2. Other uses which are not classified or set forth in the applicable Master Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements for conditional use contained in the master program.

3. Uses which are specifically prohibited by the Master Program may not be authorized.

4. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional request for like actions in the area. For example, if conditional use permits were granted to other development in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

9.12 NONCONFORMING DEVELOPMENT

9.12.1 "Nonconforming development" means a shoreline use or structure which was lawfully constructed or established prior to the effective date of the Act or this Master Program, or amendments thereto, but which does not conform to present regulations or standards of the program or policies of the SMA. In such cases, the following standards shall apply:

1. Nonconforming development may be continued provided that it is not enlarged, intensified, increased, or altered in any way which increases its nonconformity.

2. Uses and developments that do not conform to the use regulations of the master program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded except that single family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040(2)(g) upon approval of a conditional use permit

3. A nonconforming development which is moved any distance must be brought into conformance with the Skykomish Master Program and the SMA;

4. If a nonconforming development is damaged to an extent not exceeding seventy five percent (75%) replacement cost of the original structure, it may be reconstructed to those configurations existing immediately prior to the time the structure was damaged, provided that application is made for the permits necessary to restore the development within the first six months of the date the damage occurred, all permits are obtained and the restoration is completed within two (2) years of permit issuance;

5. If a nonconforming use of land or building is vacated or discontinued for a period of twelve consecutive months or for twelve months during any two-year

period, the non-conforming rights shall expire, and any subsequent use shall be conforming. It shall not be necessary to show that the owner of the property intends to abandon such nonconforming use in order for the nonconforming rights to expire. A use authorized pursuant to subsection 6 shall be considered a conforming use for the purposes of this section.;

6. A nonconforming use shall not be changed to another nonconforming use, regardless of the conforming or nonconforming status of the building or structure in which it is housed; and

7. A use which is listed as a conditional use, but which existed prior to the adoption of this master program or any relevant amendment, and for which a conditional use permit has not been obtained, shall be considered a nonconforming use. A use which is listed as a conditional use, but which existed prior to the applicability of the master program to the site, and for which a conditional use permit has not been obtained, shall be considered a nonconforming use.

8. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

9. A structure which is being used, or has been used, for a nonconforming use, may be used for a different nonconforming use only upon the approval of a conditional use permit. A conditional use permit may be approved only upon a finding that:

    a. No reasonable alternative conforming use is practical because of the configuration of the structure; and

    b. The proposed use will be at least as consistent with the policies and provisions of the act and this master program and compatible with the uses in the area as the preexisting uses

    In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the master program and the shoreline management act and to assure that the use will not become a nuisance or a hazard.

10. An undeveloped lot, tract, parcel, site, or division which was established prior to the effective date of the Act or this Master Program but which does not conform to the present lot size or density standards may be developed so long as such development conforms to other requirements of this Master Program and the Act.

9.13 ENFORCEMENT AND PENALTIES

The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement

action, benefits that accrue to the violator, and the cost of obtaining compliance may also be considered.

9.13.1 Enforcement

All provisions of the Master Program shall be enforced by the Shoreline Program Administrator and/or his/her designated representatives. For such purposes, the Shoreline Administrator or his/her duly authorized representative shall have the power of a police officer.

These regulations should be used by the Town of Skykomish in carrying out enforcement responsibilities under the Shoreline Management Act, unless the Town of Skykomish adopts separate rules to implement the Shoreline Management Act's enforcement provision.

Enforcement action by the Town of Skykomish may be taken whenever a person has violated any provision of Skykomish Shoreline Master Program. The choice of enforcement action and the severity of any penalty should be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the existence or degree of bad faith of the persons subject to the enforcement action.

9.13.2 Order to cease and desist

The Town of Skykomish and/or the Department of Ecology shall have the authority to serve upon a person a cease and desist order if an activity being undertaken on shorelines of the state is in violation of the Shoreline Management Act or the Skykomish Shoreline Master Program.

1. Content of order.
   The order shall set forth and contain:

   a. A description of the specific nature, extent, and time of violation and the damage or potential damage; and

   b. A notice that the violation or the potential violation cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time. A civil penalty under 9.11.03 may be issued with the order.

2. Effective date.
   The cease and desist order issued under this section shall become effective immediately upon receipt by the person to whom the order is directed.

3. Compliance.
   Failure to comply with the terms of a cease and desist order can result in enforcement actions including, but not limited to, the issuance of a civil penalty.

9.13.3 Civil Penalty

1. A person who fails to conform to the terms of a substantial development permit, conditional use permit or variance, who undertakes a development or use on shorelines of the state without first obtaining a permit, or who fails to comply with a

cease and desist order issued under these regulations may be subject to a civil penalty by the Town of Skykomish. The Department of Ecology may impose a penalty jointly with the Town of Skykomish, or alone only upon an additional finding that a person:

a. Has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule; or

b. Has been given previous notice of the same or similar type of violation of the same statute or rule; or

c. The violation has a probability of placing a person in danger of death or bodily harm; or

d. Has a probability of causing more than minor environmental harm; or

e. Has a probability of causing physical damage to the property of another in an amount exceeding one thousand ($1,000) dollars.

2. In the alternative, a penalty may be issued to a person by the Department of Ecology alone, or jointly with the Town of Skykomish for violations which do not meet the criteria a) through e) above, after the following information has been provided in writing to a person through a technical assistance visit or a notice of correction:

a. A description of the condition that is not in compliance and a specific citation to the applicable law or rule;

b. A statement of what is required to achieve compliance;

c. The date by which the agency requires compliance to be achieved;

d. Notice of the means to contact any technical assistance services provided by the agency or others; and

e. Notice of when, where, and to whom a request to extend the time to achieve compliance for good cause may be filed with the agency.

Furthermore, no penalty shall be issued by the Department of Ecology until the individual or business has been given a reasonable time to correct the violation and has not done so.

3. Amount of penalty.
The penalty shall not exceed one thousand ($1,000) dollars for each violation. Each day of violation shall constitute a separate violation.

4. Aiding or abetting.
Any person who, through an act of commission or omission procures, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.

5. Notice of penalty.
   A civil penalty shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the same from the Department of Ecology and/or the Town of Skykomish, or from both jointly. The notice shall describe the violation, approximate the date(s) of violation, and shall order the acts constituting the violation to cease and desist, or, in appropriate cases, require necessary corrective action within a specific time.

9.13.4 Appeal of Civil Penalty

1. The Department of Ecology and Town of Skykomish may appeal the same to the Shorelines Hearings Board. Appeals to the Shorelines Hearings Board are adjudicatory proceedings subject to the provisions of chapter 34.05 RCW. Persons incurring a penalty imposed by the Town of Skykomish may appeal the same to the Town of Skykomish legislative authority, the Skykomish Town Council.

2. Timing of appeal.
   Appeals shall be filed within thirty (30) days of the date of receipt of the penalty. The term "date of receipt" means:

   a. Five (5) business days after the date of mailing; or

   b. The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence. The recipient's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the agency, shall constitute sufficient evidence of actual receipt. The date of actual receipt, however, may not exceed forty-five (45) days from the date of mailing.

3. Penalties due.

   a. Penalties imposed under this section shall become due and payable thirty (30) days after receipt of notice imposing the same unless application for remission or mitigation is made or an appeal is filed. Whenever an application for remission or mitigation is made, penalties shall become due and payable thirty (30) days after receipt of Town of Skykomish's and/or the Department of Ecology's decision regarding the remission or mitigation. Whenever an appeal of a penalty is filed, the penalty shall become due and payable upon completion of all review proceedings and upon the issuance of a final decision confirming the penalty in whole or in part.

   b. If the amount of a penalty owed the Department of Ecology is not paid within thirty (30) days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington to recover such penalty. If the amount of a penalty owed the Town of Skykomish is not paid within thirty (30) days after it becomes due and payable, the Town of Skykomish may take actions necessary to recover such penalty.

4. Penalty recovered.
   Penalties recovered by the Department of Ecology shall be paid to the state treasurer. Penalties recovered by the Town of Skykomish shall be paid to the Skykomish treasury. Penalties recovered jointly by the Department of Ecology and the Town of Skykomish shall be divided equally between the Department of Ecology and the Town of Skykomish unless otherwise stipulated in the order.

9.13.5 Criminal Penalty

Any person found to have willfully engaged in activities on the Town's shorelines in violation of the Shorelines Management Act of 1971 or in violation of the Town's Master Program, rules or regulations adopted pursuant thereto, is guilty of a gross misdemeanor, and shall be punished by a fine of not less than twenty-five (25) nor more than one thousand ($1,000) dollars or by imprisonment in the county jail for not more than ninety (90) days, or by both such fine and imprisonment; *provided*, that the fine for this and all subsequent violations in any five-year period shall be not less than five hundred ($500) nor more than ten thousand ($10,000) dollars (RCW 90.58.220).

9.13.6 Violator's Liability

Any person subject to the regulatory program of the Master Program who violates any provision of the Master Program or permit issued pursuant thereto shall be liable for all damages to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to such violation. The Attorney General or Skykomish attorney shall bring suit for damages under this section on behalf of the State or Town governments. If liability has been established for the cost of restoring an area affected by a violation, the court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money damages, the court in its discretion may award attorneys' fees and costs of the suit to the prevailing party.

9.14 MASTER PROGRAM REVIEW

The Town will track all shoreline permits and exemption activities to evaluate whether the Master Program is achieving not net loss. A no net loss report shall be prepared every eight (8) years as part of the Town's Shoreline Master Program ~~evaluation~~ periodic review or Comprehensive Plan Amendment process. ~~Adjustments~~ Amendments to this Master Program shall be made as are necessary to reflect changing local circumstances, new information or improved data, changes to the Town's Comprehensive Plan and development regulations, and changes in State statutes and ~~regulations~~rules. Any changes in the 100-year floodplain boundaries as defined and adopted by FEMA should be incorporated into the Skykomish shoreline jurisdiction maps. This review process shall be consistent with the requirements of WAC 173-19 or its successor and shall include a local citizen involvement effort and public hearing to obtain the views and comments of the public.

During the master Program review, the cumulative effects of all project review actions in shoreline areas will be evaluated.

Commented [BHC39]: Checklist 2017.i ECOLOGY REVIEWER EDITS, Feb 13, 2019 Optional edits for clarity

9.15 AMENDMENTS TO THE MASTER PROGRAM

Any amendments to this Master Program shall be made in accordance with WAC 173-26, using either the standards local process or the optional joint review process. Proposed amendments shall be reviewed first by the Skykomish Planning Commission, which shall conduct at least one (1) public hearing on the proposed amendment. The Planning Commission shall make a recommendation to the Town Council which may hold at least one (1) public hearing before making a determination. Amendments ~~or~~

Commented [BHC40]: Checklist 2017.i ECOLOGY REVIEWER EDIT, Feb 13, 2019 Optional Edits for clarity

~~revisions~~ to the Master Program, as provided by law, ~~do not become effective until approved by the Department of Ecology.~~are subject to Ecology final approval, and become effective 14 days from the Department of Ecology's written notice of final action.

Commented [BHC41]: Checklist 2010.a

9.16 SEVERABILITY

If any provisions of this Master Program, or its application to any person or legal entity or parcel of land or circumstances, is held invalid, the remainder of the Master Program, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected.

9.17 CONFLICT OF PROVISIONS

Should a conflict occur between the provisions of this SMP or between this SMP and the laws, regulations, codes or rules promulgated by any other authority having jurisdiction within the Town, the most restrictive requirement shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this SMP.

RESTORATION PLAN

Commented [BHC42]: Restoration Plan is in the process of being updated with information on anticipated project completion and impacts of sediment in Maloney Creek. However, we propose removing the Restoration Plan and associated Appendix Maps from the SMP to create a standalone document that can be revised without a formal SMP amendment.

Commented [BHC43R42]: ECOLOGY REVIEWER COMMENT, Feb 13, 2019
Ecology urges the Town to remove the Restoration plan from the SMP to be its own stand-alone document, that is not to be regulatory.

10.1 INTRODUCTION

This restoration plan has been prepared in accordance with the Washington State Department of Ecology shoreline management guidelines. The guidelines direct local government review and updates of shoreline master programs. A significant feature of the guidelines is the requirement that local governments include within their shoreline master program, a "real and meaningful" strategy to address restoration of shorelines. WAC 173-26-186(8). The state guidelines emphasize that any *development must achieve no net loss of ecological functions*. The guidelines go on to require a *goal of using restoration to improve the overall condition of habitat and resources* and makes "planning for and fostering restoration" an obligation of local government. From WAC 173-26-201(2)(c):

> Master programs shall also include policies that promote restoration of ecological functions, as provided in WAC 173-26-201 (2)(f), where such functions are found to have been impaired based on analysis described in WAC 173-26-201 (3)(d)(i). It is intended that local government, through the master program, along with other regulatory and non-regulatory programs, contribute to restoration by planning for and fostering restoration and that such restoration occur through a combination of public and private programs and actions. Local government should identify restoration opportunities through the shoreline inventory process and authorize, coordinate and facilitate appropriate publicly and privately initiated restoration projects within their master programs. **The goal of this effort is master programs which include planning elements that, when implemented, serve to improve the overall condition of habitat and resources within the shoreline area of each city and county**.

WAC 173-26-201(2)(f) states further that "…master programs provisions should be designed to achieve overall improvements in shoreline ecological functions over time when compared to the status upon adoption of the master program." Restoration planning should be focused on tools such as economic incentives, broad funding sources such as Salmon Restoration Funding, volunteer programs, and other strategies. WAC 173-26-186(8)(c) and WAC 173-26-201(2)(f) (explaining the "basic concept" of restoration planning). Furthermore, because restoration planning must reflect the individual conditions of a shoreline, restoration planning provisions contained in the guidelines expressly note that a restoration plan will vary based on:

- Size of jurisdiction
- Extent and condition of shorelines
- Availability of grants, volunteer programs, other tools
- The nature of the ecological functions to be addressed

The restoration chapter is designed to meet the requirements for restoration planning outlined in the Ecology guidelines, in which restoration planning is an integrated component of shoreline master programs that include inventorying shoreline conditions

and regulation of shoreline development. The restoration plan builds off of the Town of Skykomish Shoreline Characterization which provides a comprehensive inventory and analysis of shoreline conditions in Skykomish, including rating specific functions and process of each shoreline segment.

This restoration plan provides a vision for ecological restoration, includes goals, objectives and opportunities. It also establishes Town strategies for implementation, including recognition of existing and ongoing programs, and it provides a framework for long-term monitoring of shoreline restoration and shoreline conditions. While this restoration plan includes broad objectives, specific implementation measures, budgets, schedules, and individual monitoring programs will be needed for individual restoration projects as they occur. Periodically, it is important for the town to evaluate the effectiveness of this plan and to adapt to changing conditions. At a minimum, this restoration plan, as well as the entire Shoreline Master Program will be reevaluated according to the schedule adopted by the state Legislature.

10.2 VISION STATEMENT

The vision statement establishes the overarching idea of the future restored ecosystem and provides a basis for the framework, including the restoration goals. The Characterization Report identifies impaired ecological processes and functions. Processes and functions on Skykomish shorelines are impaired based on the analysis, and they are not operating as they should. Goals that "promote restoration" of these ecological functions must be included in the master program. This vision statement seeks to make clear the intent of addressing ecological restoration.

> **Restoration Vision:** *The degraded processes of the Skykomish Shoreline will be restored to the extent that when protected under the policies of this plan, a net improvement to the shoreline ecosystem is obtained to benefit water quality, vegetation, and the residents of Skykomish. Restoration occurs through a combination of public and private opportunities that enhance the shoreline through improvements to the key processes.*

10.3 RESTORATION GOALS

Protect and improve water quality
Restore, protect, and enhance the shoreline function of water quality improvement, such as trapping sediment and filtering turbidity, nutrients and metals.

Reduce impacts of flooding events
Reduce impacts of flooding events by improving the storage of floodwaters and thereby reducing peak flows and erosion.

Preserve natural areas and vegetation
Restore, protect, and enhance natural vegetation. Encourage removal of invasive species and plant native species to enhance diversity of vegetative structure.

Preserve and restore habitat functions
Restore, protect and enhance habitat functions. Enhance the diversity of habitat and improve the connectivity of the restored shoreline areas with existing high quality habitat.

Preserve and improve physical and visual public access to the shoreline
Increase and improve public access to shoreline areas provided that private rights, public safety, and the natural shoreline character are not adversely affected.

10.4 ALTERATION OF KEY PROCESSES

Eight ecological functions have been altered in the Skykomish shoreline jurisdiction. The summary of those functions comes from sections 4.1, 4.2 and 4.3 in the 2010 Skykomish Shoreline Characterization Report. The eight functions for the Skykomish shoreline are:

Hydrologic Cycle
The Hydrologic cycle is the continuous movement of water between the earth and the atmosphere. Water reaches land as precipitation such as rain and snow. Then the water evaporates, condenses in the atmosphere to form clouds, and falls to the earth again as precipitation, continuing the cycle.

Large Woody Debris
Large woody debris (LWD) refers to the fallen trees, logs and stumps, root wads, and piles of branches along the edges of streams, rivers, lakes and Puget Sound. Wood helps stabilize shorelines and provides vital habitat for salmon and other creatures. Shoreline armoring can keep LWD from reaching shorelines or may prevent it from lodging in one place. Removal of shoreline vegetation, especially on unstable slopes, can prevent the delivery of wood to shorelines.

Light Energy
Light energy is the natural pathway for light to reach the shoreline and addition of artificial light to the aquatic shorelines, especially at night. Light energy affects water temperature, biological processes and plant photosynthesis and growth. Natural light can be altered when we remove vegetation or build structures such as docks and piers that create shade and prevent natural light from reaching the water. Artificial light is the light we create at night, such as from roads, parking lots, industrial complexes, houses, docks, piers and sports fields. This light can interfere with aquatic animals' routines and change predator-prey relationships.

Nitrogen
Nitrogen is the biological limiting nutrient in watershed, generally by being the least available for plants and algae. When there is too much or too little it can change how an ecosystem functions. Nitrogen moves through the watershed through depressional wetlands, headwater streams, and soil erosion.

Pathogens
Pathogens are bacteria and viruses that are destructive to humans and other animals. Though they are a natural part of the environment, in high concentration, pathogens

can change how an ecosystem functions. Wetlands play a key role in filtering out pathogens and sediment in aquatic ecosystems. An increase of impervious surfaces, and the accompanying decrease in the ability for pathogens (and water) to infiltrate the ground, causes them to move more quickly into aquatic systems and spend less time in environments that can eliminate them.

Phosphorus
Phosphorus is a naturally occurring nutrient and under natural conditions enters the water through the weathering of rocks and precipitation of dust. When there is too much or too little phosphorus, it can change how an ecosystem functions. Increases in phosphorus can lead to problematic changes in freshwater such as increased algae and a subsequent loss of deep water oxygen. Wetlands slow down water flow and the plants nearby can absorb some of the phosphorus moving through. When wetlands are lost, this ability to remove the phosphorus from the system is eliminated.

Sediment
Sediment refers to sand and other soils which settle, or are deposited, on the sides and bottom of water bodies. It is important in the formation of beaches, spits, sand bars and estuaries and provides substrates for aquatic plants and animals. Sediment also provides nutrients and minerals vital to the health of downstream ecosystems. Sediment reaches aquatic areas by watershed erosion, mass wasting, and shoreline erosion. Sediment moves through the ecosystem and is sometimes stored in wetlands, floodplains, streams, lakes, and the banks of the shorelines. The amount of sediment reaching these areas is primarily altered by draining or filling wetlands, the removal or loss of large woody debris, channelization of streams, shoreline armoring, dams, boat ramps, groins, dredging and bulkheads.

Toxins
Toxins are substances that can be harmful or cause death to plants, animals and humans, usually in an increased amount. Toxins are produced by herbicides and pesticides and vehicle emissions like gasoline and oil. Other products like antibiotics and artificial hormones, are proving to have toxic effects in aquatic water bodies, as well.
Agriculture, urban development sewage outfalls and motor vehicles can increase concentrations of toxins. Impervious surface and population concentrations contributes to the rate at which toxins move into an aquatic ecosystem. Sewer outfalls also contribute toxins by transporting toxins not treated by sewage plants or collected through stormwater runoff from impervious surfaces such as roads and driveways. Wetlands slow down water allowing plants to absorb many of the toxins found in aquatic ecosystems. When wetlands are lost, that ability to remove toxins from the system is taken away.

10.5 REACHES AND RESTORATION OPPORTUNITIES

The Town of Skykomish shoreline is divided into 4 reaches, A through D. Each reach includes opportunity areas that are based on the potential for protection, restoration or public access. These reaches were determined primarily by water body and current land uses. There are five shoreline environment designations found in the Skykomish SMP –

Aquatic, Natural, Urban Conservancy, Shoreline Residential, and High Intensity. Following is a description of each reach.

Restoration opportunities are identified below by reach. A complete table of opportunities by reach is shown following the narratives.

Reach A – Skykomish River, North Bank
Reach A extends along the North Bank of the Skykomish River from the Town boundary on the east to the Town boundary on the west. Also included in this reach is two acres located directly across Highway 2 along the western edge of town. The reach is primarily a forested riparian corridor and offers relatively good quality instream habitat. Land use in Reach A consists of 25 residential properties, three commercial businesses and two large vacant parcels totaling approximately 13.5 acres. U.S. Highway 2 borders the north edge of this reach.

Two areas in Reach A are largely untouched and high functioning areas. Both areas consist of a single large parcel and both are candidates for designation as Natural or Urban Conservancy (see Map 13).

Opportunity Area A-1 (*Protection*). Encourage preserving in the current state. Situated between US 2 to the north and the river on the south, this area is part of a five acre parcel that includes approximately one acre of commercial development. Most of the rest of the parcel is comprised of riparian vegetation including half an acre on the west end that is considered wetland. All of this area is in the floodway. This area provides habitat and flood storage and should be protected from future development.

Opportunity Area A-2 (*Protection*). Encourage preserving in the current state. This area, east of 5th Street, is part of an 8½ acre parcel between the highway and the river. About two thirds of this area is in the floodway and it is all part of the floodplain. The area in the floodway is called the "island" because a channel around this part is flooded during higher flows. Natural riparian vegetation, flood storage and habitat make the area within the floodway a strong candidate for protection.

Reach B – Skykomish River, South Bank
Reach B extends along the South Bank of the Skykomish River from the Town boundary on the east to the Town boundary on the west. The reach includes many of the commercial properties in town along with the Town's largest employer. Land use in Reach B consists of 9.5 acres of residential, 1 acre of commercial, 4 acres of historic commercial and approximately 5.2 acres of railway industrial.

Reach B includes the most developed areas of the Skykomish Shoreline. These areas include Shoreline armoring over approximately 2/3 of the reach, residential, commercial and historic commercial development, and roads and other infrastructure to support the development. Opportunity areas in Reach B can be seen in Maps 14 and 15.

Opportunity Area B-1 (*Protection*). Encourage preserving in the current state. This is a small, privately owned, undeveloped area at the west end of the reach and borders the mouth of Maloney Creek. Riparian vegetation found in the area is mostly weakly rooted

alder and maple saplings. Non-native Japanese knotweed and Himalayan blackberry are also present. Non-native vegetation is a candidate for removal and riparian habitat will be impacted by the Maloney Creek Restoration project.

Opportunity Area B-2 (*Acquisition*). Consider acquiring this vacant parcel at the west end of the West Levee as a town park with public access to the river. This would complement and continue the public access already in place on the levee.

Opportunity Area B-3 (*Public Access*). Develop the area below the 5th Street bridge for public access and launching of small watercraft.

Opportunity Areas B-4 and B-5 (*Public Access*). Develop street ends as public viewing areas with benches and information kiosks.

Opportunity Area B-6 (*Protection*). Encourage preserving in the current state. This narrow town owned, strip between the BNSF right-of-way and the river is undeveloped, riparian habitat. Recommend making this permanent open space.

Reach C – Maloney Creek
Reach C extends from the town boundary south of the old Forest Service property to the mouth of the creek on the Skykomish River (Map 16). Much of the reach is residential (5.2 acres) with 3.6 acres of undeveloped parcels, 2.3 acres of railroad industrial and an acre of public facilities.

Reach C has the most potential for shoreline restoration within the Town. Maloney Creek has been severely impacted by sediment deposits, resulting in excess town flooding and a loss of fish habitat. Two restoration projects are already underway. One is part of the remediation efforts of BNSF which includes the cleanup and restoration of the Former Maloney Creek wetland. The other is a town project funded by remediation compensation that will remove sediment from the creek bed. Opportunity areas in Reach C can be seen in Map 16.

Opportunity Area C-1 (*Public Access*). The (former) Forest Service property and the end of Thelma Street are great candidates for developing a public access site. An optional part of the Maloney Creek restoration project includes a trail originating in this area.

Opportunity Area C-2 and Opportunity Area C-3 (*Protection and Restoration*). This area offers opportunities for habitat protection and restoration. This area includes the Former Maloney Creek wetland cleanup and restoration and the Maloney Creek Restoration Project. The Maloney Creek restoration project will install a sediment trap south of town and include creek bed excavation from there to the mouth of the creek at the Skykomish River.

Reach D – Skykomish Town Park
Reach D includes the entire 6.5 acres of the Town Park. The park lies on the north bank of the Skykomish River, approximately 500 feet east of town, not contiguous with the Town boundaries.

Opportunity Area D-1 (*Protection*). This area is an approximately 100 foot swath of native riparian vegetation between the river and the developed part of the park that should be preserved in its current state.

Table of Opportunity Areas

Reach	Opportunity Area	Opportunity Type	Opportunity Category	Specific Opportunities
A	A-1	Protection	Habitat, wetland, floodway	Protection from development Retention of native trees and shrubs
	A-2	Protection	Habitat, wetland, floodway Vegetation	Protection from development Retention of vegetation and protect the floodplain
B	B-1	Protection	Vegetation, Habitat	Protection from development Retention of vegetation and protect the floodplain
	B-2	Acquisition	Public Access	Extension of Levee Trail access
	B-3	Public Access	Public Access	Direct, physical access
	B-4	Public Access	Public Access	View access
	B-5	Public Access	Public Access	View access
	B-6	Protection	Vegetation, Habitat	Protection from development Retention of vegetation and protect the floodplain
C	C-1	Public Access	Public Access	Direct, physical access
	C-2	Protection & restoration	Riparian habitat and wetlands	Restore wetland Remove excess sediment and restore riparian habitat
	C-3	Protection & restoration	Riparian habitat	Remove excess sediment and restore riparian habitat
D	D-1	Protection	Riparian Habitat	Protection from development

10.6 EXISTING AND ONGOING RESTORATION PROJECTS

All of the current restoration efforts in the Town of Skykomish are related to BNSF cleanup effort. These projects include the primary cleanup project, the restoration of Former Maloney Creek West Wetland and the restoration of Maloney Creek. Although the Skykomish Wastewater Facility Project is not directly related to the cleanup project, it is being undertaken concurrently with the cleanup to take advantage of the installation of new infrastructure that is being constructed. A short description of each existing or ongoing restoration project follows.

BNSF Railway Former Maintenance and Fueling Facility
The primary cleanup project that includes excavation and removal of contaminated soils under much of the town that has stopped spilled petroleum products from leaking into the water table and the Skykomish River. This project has had and will continue to have positive effects on water quality, floodplain management and riparian habitat. This project began in 2005 and will continue through 2012. Detailed information on this project can be found at http://www.skykomishcleanup.com/ and at http://www.ecy.wa.gov/programs/tcp/sites/bnsf_sky/bnsf_sky.html.

Former Maloney Creek West Wetland Restoration
The Restoration of Former Maloney Creek West Wetland is a part of the cleanup. The site will be excavated, soils will be replaced and habitat will be restored. This project will improve water quality, floodplain management and riparian habitat.

Restoration of Maloney Creek
The Restoration of Maloney Creek is funded by a change to the Cleanup Action Plan in how Former Maloney Creek East Wetland is cleaned up and restored. In order to address issues such as salmon habitat restoration, flooding in Skykomish, and land uses envisioned by the citizens of Skykomish in 2005 when they developed the Vision for Skykomish document, the new cleanup plan takes a more global approach to the cleanup of the Former Maloney Creek East Wetland. BNSF will excavate the wetland and restore it as an upland and fund the habitat restoration and sediment control project on Maloney Creek. BNSF will also pay mitigation fees into the Skykomish Habitat LLC Mitigation Bank to mitigate the loss of the Former Maloney Creek East Wetland and provide the Town with clean soil disposal services for the habitat restoration project at no cost to the Town.

Skykomish Wastewater Facilities Project
Homes, businesses and the Skykomish School District in the Town are served by aging and inadequate on-site septic systems that are allowing bacterial and nutrient contamination of the South Fork Skykomish River. In 2007, Public Health of Seattle & King County concluded that public health is being endangered by the discharge of raw or largely untreated sewerage into the Skykomish river and into the groundwater below the town. The Health Department encouraged and supported the development of the community wastewater system and viewed this project as the most viable solution for the protection of Skykomish's public health.

Skykomish Wastewater Facilities Project replaces the existing substandard septic systems in use throughout Skykomish with a new wastewater collection system and centralized Wastewater Treatment Facility, which provides secondary treatment and discharges treated effluent to a new drain field disposal site south of the Skykomish State Airport approximately 0.5-mile east of Skykomish.

The Skykomish wastewater facilities have been completed south of the Skykomish River and will be extended north of the river in 2010. The project is expected to be completed with the Sky Lane development to be added to the system in 2011 or 2012.

10.7 STRATEGIES FOR IMPLEMENTATION

This section discusses programmatic measures for the Town of Skykomish designed to foster enhanced public access, shoreline restoration and achieve a net improvement in shoreline ecological processes, functions, and habitats. With budget and staff limitations, the Town of Skykomish does not anticipate leading most restoration projects or programs. However, the Town's SMP represents an important vehicle for facilitating and encouraging restoration projects and programs that could be led by local private and non-profit entities. The discussion of restoration mechanisms and strategies below highlights programmatic measures that the Town could implement, as well as parallel activities that would be led by other governmental and non-governmental organizations.

New Zone
The town currently has several private vacant areas located within its shorelines, however current zoning does not show these as open space. Although these areas are zoned residential, development is not likely. If the town were to create a less intensive zone for these vacant areas, this would offer significant habitat protection and conservation.

Volunteer Coordination
Another way the town could accomplish public access and restoration projects is by using community volunteers. Volunteers could be recruited for project implementation and monitoring and the town would provide equipment and expertise. The town may also need to consider funding a volunteer coordinator to organize projects, solicit various environmental groups and individual volunteers to complete the projects and partner or coordinate with other government entities on projects.

High School Students
Skykomish High School students have already been involved in the Vision process and the Maloney Creek Walk. After the creek walk, the middle school science class students thought they may want to get involved with the Maloney Creek Restoration project in some capacity.

Contact: Jeff Long, School Superintendent
(360) 677-2623, jlong@skykomish.wednet.edu

Capital Facilities Program
The Town could develop shoreline public access and restoration as a new section of the town's Capital Facilities Program, even if not immediately funded, to ensure that they are considered during the Town's budget process. Shoreline restoration could also be linked to capital facilities projects that take place in the town's shorelines, such as when there is highway construction on State Route 2 and town park improvements.

King County Basin Steward Program
Basin Stewards are a team of King County Water and Land Resources Division professionals knowledgeable about community and natural resources in specific King County watersheds. They use a number of approaches to work with landowners and other public agency officials to protect local habitats.

Stewards work with citizens and technical staff to develop and implement priority habitat protection and restoration projects in critical habitat areas along our rivers and streams. They can help streamside landowners identify resources including funding for habitat protection. They can also answer questions about best management practices, regulations, wildlife concerns, land conservation, habitat restoration, and water quality concerns.

Info: http://www.kingcounty.gov/environment/watersheds/general-information/basin-stewards.aspx

Stilly-Snohomish Fisheries Enhancement Task Force
A not-for-profit corporation whose mission is to ensure the future of salmon in the Stillaguamish and Snohomish River basins and Island County watersheds. The Task Force has directed its resources and efforts to the challenge of developing community partnerships and strategies to improve and restore the recreational and commercial fisheries of the Pacific Northwest.

Info: http://www.stillysnofish.org/index.html

Landowner Incentive Program (LIP)
This is a competitive grant process to provide financial assistance to private individual landowners for the protection, enhancement, or restoration of habitat to benefit species-at-risk on privately owned lands. Check the LIP website for information about applications.

Info: http://wdfw.wa.gov/grants/lip/.

Salmon Recovery Funding Board (SRFB) Grant Programs
SRFB administers grant programs for protection and/or restoration of salmon habitat. Eligible applicants can include municipal subdivisions (cities, towns, counties, ports, conservation districts, utility, park and recreation, and school districts), Tribal governments, state agencies, nonprofit organizations, and private landowners. More information about SRFB is available at:

Info: http://www.rco.wa.gov/boards/srfb.shtml.

Salmon recovery grant details are available at:

Info: http://www.rco.wa.gov/grants/salmon.shtml.

Backyard Sanctuary Program
Encourage participation in Washington Department of Fish and Wildlife backyard sanctuary program. Since the Town recognizes that there are important opportunities to improve shoreline ecological conditions and functions through non-regulatory, volunteer actions by shoreline residents and property owners it might examine the potential for property tax breaks for shoreline property owners who actively manage their property for habitat protection or enhancement. To encourage volunteer actions that better shoreline ecological functions and values, shoreline property owners actively participating in the WDFW backyard sanctuary program or some similar program could receive a credit on their Town property taxes.

Info: http://wdfw.wa.gov/living/backyard/

Adopt A Stream Foundation
The AASF mission is to teach people how to become stewards of their watersheds. That mission is carried out by conducting Streamkeeper Academy classes for all ages, by producing environmental education materials and providing local communities with stream and wetland restoration technical assistance. To expand their capabilities, they developed the Northwest Stream Center: a regional teaching facility with Stream and Wetland Ecology & Fish and Wildlife Habitat Restoration themes. For more information:

Info: http://www.streamkeeper.org/aasf/Welcome.html

Habitat Bank & Mitigation Banking Services
This is a regional mitigation banking project that includes the Snohomish Basin Mitigation Bank and the Skykomish Habitat Mitigation Bank. A variety of wetland and upland habitats are established throughout the site including aquatic, emergent shrub and forested wetland habitats and floodplain upland areas. The banks offer wetland, stream, and buffer credits for Local, State and Federal permits for development impacts.

Info: http://www.habitatbank.com
http://www.mitigationbankingservices.com/

10.8 EVALUATION AND MONITORING

When a project is proposed for implementation by the town, other agency or by a private party, the restoration project should be evaluated to ensure that the project's objectives are consistent with those of the Restoration Plan and, if applicable, that the project warrants implementation above other candidate projects. It is recognized that, due to funding sources or other constraints, the range of any individual project may be narrow.

It is also expected that the list of potential projects may change over time, that new projects may be identified and existing opportunities may become less relevant as

restoration occurs and as other environmental conditions, or our knowledge of them, change.

Project Evaluation

When evaluating potential projects, priority should be given to projects most meeting the following criteria:

- Restoration meets the goals for shoreline restoration.
- Restoration of processes is generally of greater importance than restoration of functions.
- Restoration avoids residual impacts to other functions or processes.
- Projects address a known degraded condition.
- Conditions that are progressively worsening are of greater priority.
- Restoration has a high benefit to cost ratio.
- Restoration is feasible, such as being located on and accessed by public property or private property that is cooperatively available for restoration.
- Restoration should avoid conflicts with adjacent property owners.
- There is public support for the project.

The town should consider developing a project "score card" as a tool to evaluate projects consistent with these criteria. The Habitat restoration Criteria scorecard from the Lower Columbia River Estuary Partnership could be useful as a starting point.

Info: http://www.lcrep.org/habitat-restoration-prioritization-framework

Project Monitoring

In addition to project monitoring required for individual restoration and mitigation projects; the town should conduct system-wide monitoring, to the degree practical, recognizing that individual project monitoring does not provide an assessment of overall shoreline ecological health. The following approach is suggested:

1. Track information using the town's GIS system as activities occur (both restoration and mitigation) for the individual shoreline reaches, such as:

   - Removal of fill
   - Vegetation
   - Bulkheads/armoring

   The town may require project proponents to monitor as part of project mitigation, which may be incorporated into this process.

2. Re-review status of environmental processes and functions at the time of periodic SMP updates.

   - Review progress by segment to evaluate the key processes
   - Review segment progress towards the restoration goals

3. Periodically review the regional ongoing monitoring programs, such as:

Snohomish County Monitoring
http://www1.co.snohomish.wa.us/Departments/Public_Works/Divisions/SWM/Library/Publications/Aquatic_Habitat/Salmon/SnohomishRiverBasinSalmonidReview.htm

Watershed health
http://cfpub.epa.gov/surf/huc.cfm?huc_code=17110009

As monitoring occurs, the town should periodically reassess environmental conditions and restoration goals. Those ecological process and functions that are found to be worsening may need to become elevated in priority to prevent loss of critical resources. Alternatively, successful restoration may reduce the importance of some restoration objectives in the future.

10.9 TIMELINE FOR IMPLEMENTATION

The Town of Skykomish currently has several major restoration or enhancement projects underway (see section 11.06). These projects will largely address most of the restoration issues currently identified by the Town.

These can be added to by implementing the identified projects listed in the table above. As stated in the restoration opportunities section above, Reach C is most in need of restoration and is most likely to have successful restoration, and should be considered higher priority in the restoration process. These factors could be taken into consideration when implementing restoration projects. Below is the restoration project timeline; projects are ranked by short term, medium term, and long term. These projects should be considered to be ranked by priority. The funding groups listed above have application deadlines which also need to be taken into consideration when timing projects.

Short term restoration projects include those that could be implemented by local landowners and volunteers and that would benefit the areas in need of protection. These projects could be implemented primarily in Reach A where there are no restoration projects currently underway. Areas in Reach A might be good candidates for some of the implementation strategies shown in section 11.07 above. The Town Park, Reach D, might benefit from some of those strategies also, in particular a new "open space" zoning designation could be considered. Although most of Maloney Creek through Town will be subject to a large scale restoration project, many of the property owners along the creek could benefit from one of the stewardship programs.

Medium term restoration projects could include those that enhance Skykomish shorelines that have been designated or acquired previously. These could also be implemented in reach D where there are public access lands that are not likely to be developed in the near future. This would include:

- Flood Control Funding under the Department of Ecology for habitat protection and enhancement.
- Aquatic Lands Enhancement Account funding under the Department of Natural Resources.

Longer term restoration projects could be those that require coordination with other jurisdictions or that cover larger land areas. These projects may be more difficult to implement and could require more planning. These would include:

- Consider acquiring the area in Reach A, south of US 2 and at the west end of Town. This area could be used for public access projects such as trails or nature walks.
- Consider acquiring the area in Reach A, south of US 2 between the Deli and the Sky lane development. This area along with the shoreline below Sky Lane could be used for a trail system from 5th Street to the Town Park, just east of Skykomish.

10.10 FUNDING GROUPS

Below are potential funding groups for Skykomish Shoreline Restoration. The funding groups are sorted by the Restoration Goal they support.

Goal: Protect and Improve Water Quality

Water Quality – Washington Department of Ecology
http://www.ecy.wa.gov/programs/wq/funding/funding.html

Eligibility: Local governments, recognized tribes
Purpose: Water quality, wastewater treatment source, wetland habitat preservation funding, public education

National Resource Conservation Service – US Department of Agriculture
http://www.nrcs.usda.gov/

Eligibility: Landowners, tribes
Purpose: Wetlands easements and restoration

Watershed Protection Grants – Environmental Protection Agency
http://cfpub.epa.gov/fedfund/

Eligibility: Local governments, WA State
Purpose: Erosion and sediment control management

5 Star Restoration Program – Environmental Protection Agency
http://www.epa.gov/owow/wetlands/restore/5star/

Eligibility: State & Local Governments
Purpose: Wetland and stream restoration

Goal: Reduce Impacts of Flooding Events

Flood Control – Washington Department of Ecology
http://www.ecy.wa.gov/programs/sea/grants/flooddamageprevention/index.html

Eligibility: Cities
Purpose: Fish habitat protection, enhancement

Aquatic Lands Enhancement Account – Washington State Department of Fish and Wildlife
http://wdfw.wa.gov/grants/alea/

Eligibility: Individuals, non-profit, schools, public utility districts and tribes using volunteers
Purpose: Fish and wildlife resources

Goal: Preserve Natural Areas and Vegetation

Cooperative Endangered Species Conservation Fund – US Fish & Wildlife Service
http://www.fws.gov/midwest/endangered/grants/S6_grants.html

Eligibility: Not for habitat restoration or enhancement
Purpose: Conserve threatened or endangered species, protect lands for habitat conservation

Bring Back the Natives – National Fish and Wildlife Foundation
http://www.nfwf.org/bbn/

Eligibility: nonprofits, universities, tribes, and local, state, and federal agencies
Purpose: Fish and wildlife resources

Pacific Northwest National Fire Plan
http://www.nwfireplan.gov/

Eligibility: Cities
Purpose: Reduce fuels on lands at risk

Goal: Preserve and Restore Habitat Functions

National Fish and Wildlife Foundation
http://www.nfwf.org/

Eligibility: Local & State Governments
Purpose: Conserve fish, wildlife, plant habitats

King County Community Salmon Fund – National Fish and Wildlife Foundation
http://www.nfwf.org/csf/kingcounty/

Eligibility: Local governments, WA State, South Snohomish Co.
Purpose: Fund habitation protection and restoration to benefit watershed health

FWS Endangered Species Program – US Fish & Wildlife Service
http://www.fws.gov/endangered/grants/index.html

Eligibility: States
Purpose: Land acquisition, habitat conservation, to conserve threatened and endangered species

Regional Fisheries Enhancement Groups – Washington State Department of Fish and Wildlife
http://wdfw.wa.gov/about/volunteer/rfeg/index.html

Eligibility: local, state and federal agencies; tribes; local businesses; community members; and landowners.
Purpose: Salmon recovery

Salmon Recovery Funding Board – Washington State Recreation & Conservation Office
http://www.rco.wa.gov/grants/salmon.shtml

Eligibility: Local agencies, special purpose districts, state agencies, tribes, private landowners, nonprofits, regional fisheries enhancement groups
Purpose: Protect and restore salmon habitat

Goal: Preserve and Improve Physical and Visual Public Access to the Shoreline

Landowner incentive program - Washington State Department of Fish and Wildlife, Lands Division
http://wdfw.wa.gov/grants/lip/

Eligibility: Private landowners
Purpose: Habitat

Conservation Futures Tax Fund – King County
http://directory.kingcounty.gov/ServiceDetail.asp?ServiceID=7228

Eligibility: Local governments
Purpose: protection of open space lands

Appendix A FEDERAL & STATE AGENCY CONTACTS

FEDERAL

Federal Emergency Management Agency (FEMA)
Mitigation Division 425-487-4679

U.S. Army Corps of Engineers 206-764-3742

STATE

Washington Department of Archaeology and Historic Preservation
http://www.dahp.wa.gov/

Main Office 360-586-3065

Washington State Department of Commerce
http://www. cted.wa.gov

Growth Management 360-725-3000

Washington State Department of Ecology
http://www.ecy.wa.gov

Headquarters Office 360-407-6000
Northwest Region..... 425-649-7000
Shorelands & Environmental Assistance..... 425-649-7096
Shoreline Planning, Permitting and Compliance, Patricia Lambert 425-649-7199

Washington State Department of Fish and Wildlife
http://wdfw.wa.gov/

Main Office 360-902-2200
North Puget Sound (Region 4)..... 425-775-1311

Washington State Department of Natural Resources (DNR)
http://dnr.wa.gov/

General Information..... 360-902-1000
South Puget Sound Region.....360 825-1631
Aquatic Resources Division 360-902-1100
Shoreline Aquatic District..... 360-825-1631
Forest Practices Division 360-902-1400

Appendix B CUMULATIVE IMPACTS ANALYSIS

B.1 INTRODUCTION

The Shoreline Management Act guidelines require local shoreline master programs to regulate new development to maintain no net loss of shoreline ecological functions. While some impacts are immediate and can be directly addressed through avoidance and mitigation, other impacts are cumulative in nature. Individually, the action may not result in a significant impact, but the composite of many similar actions over time may lead to a significant cumulative impact to the ecosystem. For example, the creation of a small area of impervious surface may have only a negligible impact on the environment. The creation of numerous impervious surfaces that in total result in a significant change in the amount of such surface throughout a watershed over time could lead to significant impacts, such as: water quality degradation, increased peak storm flows, channel erosion, decreased vegetation and habitat areas, increased local temperatures, and other potential impacts.

The guidelines state that, "To ensure no net loss of ecological functions and protection of other shoreline functions and/or uses, master programs shall contain policies, programs, and regulations that address adverse cumulative impacts and fairly allocate the burden of addressing cumulative impacts.

Evaluation of such cumulative impacts should consider:

(i) current circumstances affecting the shorelines and relevant natural processes;

(ii) reasonably foreseeable future development and use of the shoreline; and

(iii) beneficial effects of any established regulatory programs under other local, state, and federal laws."

In addition to the Shoreline Master Program under Shoreline Management Act (SMA), developments in the Town of Skykomish are also regulated under the Town's Comprehensive Plan and the Town's Critical Areas Regulations, both required under the Growth Management Act (GMA).

Other state and federal regulations also apply to the Town's shoreline jurisdiction when local developments will affect critical areas or large areas adjacent to shorelines. Some of these state and federal regulations include, but are not limited to: the Endangered Species Act (ESA) to protect and recover federally listed species; the Clean Water Act (CWA) to protect water quality and regulate excavation and dredging; Hydraulic Project Approval (HPA) regulates projects that change waters of the state and affect fish habitat; and the National Pollution Discharge and Elimination System (NPDES) which regulates discharges into surface waters.

B.2 REASONABLY FORESEEABLE FUTURE DEVELOPMENT

This analysis is looking at foreseeable impacts over time. These impacts are being looked at reach by reach, as done in the Shoreline Characterization. Site specific impacts are also expected to be addressed on a case-by-case basis during individual project reviews. The reaches used in

this analysis are pre-determined areas based on water body and land uses that have previously been analyzed for alterations to key processes.

Cumulative impacts to the shoreline environment may result from a wide range of possible actions. Consistent with the guidelines, an appropriate evaluation of cumulative impacts on ecological functions will consider reasonably foreseeable future development and use of the shoreline that is regulated by the shoreline master program, as well as actions that are caused by unregulated activities and development exempt from permitting. The guidelines, "recognize that methods of determining reasonably foreseeable future development may vary according to local circumstances, including demographic and economic characteristics and the nature and extent of local shorelines." The focus of foreseeable development is on those actions that have been identified as potential impacts to the shoreline environment and that are or would be foreseeable based on past development patterns, dependent on shoreline regulations.

The Skykomish shoreline is unlikely to experience much more development, as much of the property is currently built out. The large vacant parcels that do remain are limited by environmental features such as wetlands, floodways or habitat. The most likely development or re-development in the Skykomish shoreline jurisdiction will be infill on Sky Lane or in the center of Town on the south bank of the Skykomish River. Infill is unlikely to cause a need for additional utilities and streets in the shoreline. Therefore, a different pattern of development is unlikely to be created that will result in additional cumulative impacts.

The 2007 King County Buildable Lands Report identifies a growth target of 18 additional households needed by 2022. With the completion of the BNSF remediation cleanup effort and the installation of the new Skykomish wastewater treatment facility, demand for housing could increase. Most of the capacity identified in that report is outside of shoreline jurisdiction.

B.3 REACHES OF THE SHORELINE INVENTORY

The Town of Skykomish is located downriver of the confluence of the Beckler and Skykomish Rivers and just east of where Maloney Creek meets the Skykomish River. The majority of the land within the Town is zoned residential. The Skykomish River and Maloney Creek are both designated as "shorelines of the state" and the Skykomish River is designated as a "shoreline of statewide significance."

The Shoreline Characterization provides a comprehensive description of shoreline conditions by reach. The shoreline is divided into four reaches, A through D. The reaches were determined primarily by water body and current land use. Reaches are described below by location, land use, shoreline environment, at risk areas, and potential for future development. More detailed analysis of the reaches is located in the Detailed Reach Analysis Tables at the end of this section.

Reach A is located along the north bank of the Skykomish River. This area is characterized by three large undeveloped areas, the main "gateway" into town and the Sky Lane residential area. There are two wetlands in this area, on the western town boundary. The SMP designations include Natural, High Intensity and Shoreline Residential. At risk areas include shoreline vegetation, habitat protection and floodplain and floodway protection. The wetland areas in this reach are important since they hydraulically connected to the Skykomish River and are impacted

by upland areas.Reach A is likely to experience development impacts around the intersection of US 2 and 5th Street and in the Sky Lane neighborhood. The existing development on US 2 is convenience commercial. This intersection is the "gateway" to the Town of Skykomish and it is zoned commercial, so it has the potential to be more intensely developed. Sky Lane consists of single family homes on approximately quarter acre lots. Only five building sites within the shoreline remain in this area and could be developed within the next 20 years. The two largest areas in this reach are undeveloped. These two areas, in the floodway between the river and the highway, consist primarily of riparian habitat, wetlands and forest. Except for the commercial area, the rest of this reach is zoned residential.

Reach B is on the south side of the Skykomish River through town. This reach contains a variety of land uses including the downtown commercial and historic commercial core. This reach also includes the town school and older small lot residential along the river. The area is zoned commercial, historic commercial and residential. There are few at risk areas in reach B due to the extensive development of the reach. Although much of the area west of 5th Street is in the floodway, water quantity functions probably won't be strongly impacted by additional impervious surfaces from streets and utilities since they are already in place.

Reach B is likely to experience some additional impacts from developments, mostly from infill as this area is almost entirely built out. The new wastewater system could enable infill to develop more intensely than existing development. Roads and utilities are in place and it is unlikely there will be additional impervious surface due to new roads. Some riparian vegetation can be found at the extreme east and west ends of the reach, but the rest of the reach is protected by levees and other shoreline armoring and many homes are built close to the river with associated residential landscaping.

Reach C is the shoreline of Maloney Creek. This reach is primarily residential and is designated as residential and historic commercial. Several one and two acre vacant parcels are dominated by the creek and associated wetlands. Those areas consist of mostly natural riparian vegetation. At risk in reach C is riparian vegetation, habitat protection and restoration areas.

Reach C is also not likely to experience residential development as the vacant parcels are encumbered with critical areas. Some development could occur on the former Forest Service property, but only a small portion of that property is in the shoreline jurisdiction. This reach could potentially have some public access and a creek restoration project is currently underway that should restore much of this reach and add public access.

Reach D is the Town Park. This reach is designated as urban conservancy and contains riparian forest along the river and typical park landscaping on the rest of the site. Since the park is owned by the town and is the centerpiece of the Skykomish *Parks, Trails & Open Space Plan*, development other than park improvements is unlikely in this reach.

B.4 DETAILED REACH ANALYSIS TABLES

The following tables discuss existing conditions, foreseeable development, functions at risk, parts of the SMP that affect development, non-regulatory measures and the net effects of development in smaller sections of the reaches.

REACH A	North side of Skykomish River				
Existing Conditions	**Foreseeable Development**	**Function or Processes at Risk**	**SMP Environmental Designations, Policies & Regulations**	**Non-Regulatory Measures**	**Net Effect**
The 2 acre area at the west Town boundary, north of US Highway 2, is primarily wetland and forest. It is part of a 50 acre parcel (#262611-9009) that was mostly logged off a few years ago. This specific area is wetland and it is the only part of the parcel that was not completely logged off.	Most of the 50 acre parcel that this area is a part of is located on a fairly steep hillside. Due to the limited access and the steep hillsides, the western part of this parcel, around this wetland is likely to be developed last, if at all. The only detailed inquiry about development of this parcel in the last 10 years envisioned less than 30 units in the eastern portion of the parcel. The southern edge of this area is bounded by heavily traveled highway, US Highway 2. This part of the reach itself is unlikely to be developed as it is entirely covered by wetland and floodplain.	If developed, habitat, water quality and water quantity would all be impacted since the only way to develop this area would be to fill the wetlands causing flooding and loss of water storage, loss of habitat from clearing and increased run off from more impervious surface.	**Natural Environment Designation**: Designation Criteria - Areas to be designated Natural should meet one or more of the following criteria: **4.03.01.4.** Such shoreline areas that include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, and ecologically intact shoreline habitats. **Management Policies -** **4.03.02.5.** New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. The subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions is not allowed. **General Policies & Regulations, Wetlands** **5.07.03.1** All development or activity including removing or disturbing soil, filling, changing the water level, placing obstructions, constructing a structure, destroying or altering vegetation or introducing pollutants within a wetland or its buffer shall, at a minimum, result in no net loss of wetland area and functions. **5.07.03.7** It is the policy of the town of Skykomish to require site planning to avoid or minimize damage to wetlands wherever possible, to require that activities not dependent upon a wetland location be located at upland sites, and to achieve no net loss of wetlands by requiring restoration or enhancement of degraded wetlands or creation of new wetlands to offset losses that are unavoidable. **Shoreline Modification Policies & Regulations, Fill** **7.03.01.A** Fill (in a river or wetland) should be prohibited and only allowed when necessary to support the design and construction of a shoreline restoration or environmental enhancement project **7.03.02.8** Fill shall be permitted only where it is demonstrated that the proposed action will not: a. Result in significant damage to water quality, fish, aquatic habitat, and/or wildlife habitat; or b. Adversely alter natural drainage and circulation patterns, currents, or stream flows, or significantly reduce flood water holding capabilities.		The proposed regulatory measures in combination with the environment designation will ensure "no net loss" of shoreline function from future development impacts.

REACH A	**North side of Skykomish River**				
Existing Conditions	**Foreseeable Development**	**Function or Processes at Risk**	**SMP Environmental Designations, Policies & Regulations**	**Non-Regulatory Measures**	**Net Effect**
The 3 acre area at the west Town boundary, south of US 2, is primarily riparian forest and in a generally natural state. This area lies entirely in the floodway.	This area is part of a parcel (#262611-9038) that includes a towing business near the US 2 intersection with 5th Street. Because the area is in the floodway, new development would be prohibited under most circumstances. Low intensity recreational development or public access is a possibility in the future.	Water quantity would be impacted if this area is intensely developed due to flooding and loss of floodplain. Habitats would also be impacted due to loss of vegetative cover in the floodway. This is a high functioning ecological area, rating mostly High on the reach quality analysis performed by King County and referenced in the Inventory & Characterization report.	**Natural Environment Designation** Designation Criteria - Areas to be designated Natural should meet one or more of the following criteria: **Criteria 4.03.01.4** (*see above*) **Management Policies - 4.03.02.5** (*see above*) **General Policies & Regulations, Wetlands - 5.07.03.1** (*see above*) **Regulation 6.05.04.6 6** - Residential development shall be prohibited within floodways, wetlands and within other hazardous areas such as steep slopes and areas with unstable soils or geologic conditions. **SMC 16.10.550** prevents building in floodways if encroachments result in any increase in flood levels during the occurrence of the base flood discharge.	Encourage public access or other low intensity activities such as trails.	The proposed regulatory measures in combination with the environment designation will ensure "no net loss" of shoreline function from future development impacts.
This part of the reach includes heavily traveled US Highway 2 from the west Town boundary to just beyond the intersection with 5th Street and the commercial developments on either side of the 5th Street intersection. The commercial developments include a service station, towing business and a deli/liquor store.	The commercial developments have the potential to be more intensely developed. Water oriented uses may not be the focus but visual public access could be provided with any new development. This part of the reach is not in the floodway or floodplain.	This part of the reach has an overall composite reach quality score for shoreline ecological functions of medium-low. This is primarily influenced by the following: - high levels of artificial light from vehicles on the highway and the businesses (light energy function scores Low) - higher levels of pathogens because the impervious surfaces don't allow pathogens and water to infiltrate the ground (pathogens function scores Medium-Low to Low) - high levels of toxins probably from the high traffic volumes (toxins function scores Low)	**High Intensity Environment Designation** **Designation Criteria – 4.06.01 A** "high-intensity" environment is for designating shoreline areas that currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses. **4.06.02 .4 Management Policy** - Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed. **4.06.02 .5** New development shall result in no net loss of shoreline ecological functions. **Shoreline Use Policies & Regulations, Commercial Development 6.02.03.3** Non-water-oriented commercial developments may be permitted … where it can be demonstrated that: a. A water-oriented use is not reasonably expected to locate on the proposed site due to topography, surrounding land uses, physical features or due to the site's separation from the water; b. The proposed use does not usurp or displace land currently occupied by a water-oriented use and will not interfere with adjacent water-oriented uses; and		This area is the "gateway" to the Town and as such it is likely to be more intensely developed within the next 20 years. Because of the existing degraded conditions and the continued use of the highway, there is little likelihood that this area is a candidate for restoration projects. This area is suitable for a High Intensity Environment designation. The proposed regulatory measures in combination with the environment designation will ensure "no net loss" of shoreline function from future development impacts.

REACH A	**North side of Skykomish River**				
Existing Conditions	**Foreseeable Development**	**Function or Processes at Risk**	**SMP Environmental Designations, Policies & Regulations**	**Non-Regulatory Measures**	**Net Effect**
The 10 acre parcel (#262611-9122) just east of the commercial development at 5th Street, is heavily forested with riparian vegetation and generally in a natural state.	Approximately 2.5 acres is in floodplain but not in the floodway. The rest of this parcel is in the floodway so new development would be prohibited under most circumstances.	Water quantity would be impacted if this area is developed due to flooding and loss of floodplain. Habitat function would also be impacted due to loss of vegetative cover in the floodway. This is a high functioning ecological area, rating High on the reach quality composite score.	**Natural Environment Designation**: Designation Criteria - Areas to be designated Natural should meet one or more of the following criteria: **Criteria 4.03.01.4** **Management Policies - 4.03.02.5** **SMC 16.10.550** prevents building in floodways if encroachments result in any increase in flood levels during the occurrence of the base flood discharge. **6.05.04.6** Residential development shall be prohibited within floodways, wetlands and within other hazardous areas such as steep slopes and areas with unstable soils or geologic conditions.	Encourage public access or other low intensity water-oriented activities such as trails or river access.	The proposed regulatory measures in combination with the non-regulatory measures and the environment designation will ensure "no net loss" of shoreline function from future development impacts.
The eastern most part of the reach is the Sky Lane residential development consisting of heavily wooded, residential lots averaging approximately 13,000 square feet each.	16 of 21 lots that are in the shoreline jurisdiction are developed. Under current zoning, parcels in this area cannot be further divided. The area is zoned residential and the remaining five parcels are likely to be developed in the foreseeable future.	Most of these parcels are in the floodplain but not the floodway. Development of the remaining five lots will result in removal of some vegetation and additional impervious surface. Even with the current level of development, this area has remained a high functioning ecological area because much of the riparian vegetation, and canopy is still in place. This area has a rating of High on the reach quality composite score.	**Shoreline Residential Environment Designation** **Designation Criteria – 4.05.01** Areas to be designated are predominantly single-family or multifamily residential development or are planned and platted for residential development. **Management Policy 4.05.02.1** Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions **General Policies & Regulations** **5.02.02.2** All shoreline uses, and shoreline modification activities, including those that do not require a shoreline substantial development permit, must conform to the intent, policies, and regulations of this Master Program **Shoreline Use Policies & Regulations, Residential Development** **6.5.2 PERMIT EXEMPTION - Single Family Residence** **6.5.3 .C** Recognizing the single purpose, irreversible and space consumptive nature of shoreline residential development, new development should provide adequate setbacks and natural buffers from the water and ample open space among structures to protect natural features, preserve views and minimize use conflicts. **6.05.04.3** Residential development shall not be approved where flood control, shoreline protection measures or bulkheading will be required to create residential lots or site area. Residential development shall be located and designed to avoid the need for structural shore defense and flood protection works in the foreseeable future.		Although some residential development is exempt from a substantial development permit, they must still conform to the SMP. The proposed regulatory measures in combination with the environment designation will ensure "no net loss" of shoreline function from future development impacts.

REACH B	South side of Skykomish River				
Existing Conditions	**Foreseeable Development**	**Function or Processes at Risk**	**SMP Environmental Designations, Policies & Regulations**	**Non-Regulatory Measures**	**Net Effect**
The west end and the east end of this reach are wooded and undeveloped. Both areas are narrow strips along the river and are in close proximity to the BNSF RR right-of-way.	Both of these areas are in the floodway and within 100 feet of the OHWM. The eastern section is owned by the Town. Neither is likely to be developed.	Hydrologic function quality is High or Medium-High in both sections due to riparian vegetation. Light Energy function is Medium-Low to Medium-High and toxin levels are High in the east section due to its location adjacent to the RR right-of-way.	**Natural Environment** **Shoreline Residential Environment** **Policy 6.05.03 B**. Residential development should be prohibited in critical areas including but not limited to wetlands, steep bluffs, floodways, etc. **Regulation 6.05.04.6** Residential development shall be prohibited within floodways, wetlands and within other hazardous areas such as steep slopes and areas with unstable soils or geologic conditions.	The Town's parcel has limited access, is river bank and is bordered by the BNSF right-of-way. The Town has no plans to develop this parcel.	The proposed regulatory measures in combination with the non-regulatory measures will ensure "no net loss" of shoreline function from future development impacts.
The rest of this reach is almost fully developed consisting of small lot residential, the historic commercial center, other commercial developments, the town school and parts of the BNSF RR right-of-way. Most of this reach is protected by levees.	The area west of 5th Street is almost fully "built out". Two undeveloped lots could potentially be developed as single family residential if they satisfy the requirements of **SMC 16.10.550**. Two others may be restored to their pre-cleanup state. No lot west of 5th Street is large enough to be divided under current zoning. This area is almost entirely in the floodway. The area east of 5th Street is fully built out with the exception of the three SkyRiver Inn properties (#780780-0520, #780780-0480, #780780-0475). Two of the SkyRiver Inn properties, which are zoned commercial could be further divided but no other parcels could be divided under current zoning. The SkyRiver Inn properties were razed as part of the cleanup effort and the owners currently hold Shoreline Conditional Use Permits to re-build, likely with an increase in intensity. Neither area should see additional shoreline stabilization since levees are already in place.	All shore ecological functions are degraded to some extent throughout this part of the reach due to extensive development, clearing of vegetation and shoreline armoring. - Light energy, toxins and large woody debris are especially affected. Artificial light is present due to roads and an urban environment, while natural light is affected by a lack of natural vegetation cover. - Toxins are present because of roads and other impervious surfaces. - Large woody debris is not present due to clearing for development and shoreline armoring. Armoring includes artificially placed LWD.	**Shoreline Residential Environment** **High Intensity Environment** **General Regulations 5.02.02.1** New development shall result in no net loss of shoreline ecological functions. **Commercial Development Regulation 6.02.03.1e** Provisions to ensure that the development will not cause adverse environmental impacts and will result in no net loss of shoreline functions; **Regulation 6.02.03.3d.** The proposed use will result in no net loss of shoreline functions. **Residential development** **Regulation 6.05.04.6** Residential development shall be prohibited within floodways, wetlands and within other hazardous areas such as steep slopes and areas with unstable soils or geologic conditions. **Shoreline Use Policies and Regulations 6.01.01** Prohibited Activities … Industrial Development **Shoreline Stabilization** **Regulation 7.07.03.5** New structural stabilization measures shall not be allowed except when necessary to protect existing primary structures. **SMC 16.10.550** prevents building in floodways if encroachments result in any increase in flood levels during the occurrence of the base flood discharge.	BNSF Railway owns a large parcel (#262611-9017) that runs east-west through town and includes the railroad right-of-way. It is unlikely that its use will change. New industrial development is specifically prohibited in the shoreline.	The proposed regulatory measures will ensure "no net loss" of shoreline function from future development impacts.

REACH C	Maloney Creek				
Existing Conditions	**Foreseeable Development**	**Function or Processes at Risk**	**SMP Environmental Designations, Policies & Regulations**	**Non-Regulatory Measures**	**Net Effect**
The northwest end of this reach consists of parts of the BNSF RR right-of-way.	Expect continued active use of the RR right-of-way, development unlikely in this area.	Parts of this area are the least impacted part of the rail yard as this is where the tracks narrow from multiple tracks to a single track at the western edge of town. Light, LWD, toxin and pathogen functions are impacted on the western part of the rail yard due to the industrial nature of the yard.	**High Intensity Environment** **General Regulations 5.02.02.1** New development shall result in no net loss of shoreline ecological functions. **Shoreline Use Policies and Regulations 6.01.01** Prohibited Activities … Industrial Development Zoned Industrial on the Town's **Zoning map.**	BNSF Railway owns a large parcel that runs east-west through town that includes the railroad right-of-way. It is unlikely that its use will change. New industrial development is specifically prohibited in the shoreline.	Even though this area will continue to impact ecological functions, it is unlikely that it will be developed or re-developed more intensely. Additionally, industrial development is specifically prohibited in the shoreline. The proposed regulatory measures will ensure "no net loss" of shoreline function from future development impacts.
The area on the north side of the creek and the area around the Old Cascade Highway bridge across Maloney Creek consists of mostly residential development and a few businesses and public facilities.	All of these parcels are already developed. Many back up to the creek or include creek habitat or associated wetlands. The only parcel that could be divided under current zoning is the former Forest Service compound. Only about 13,000 square feet of the 5 acre parcel is in the shoreline jurisdiction. This 5 acre parcel is currently owned by the Town but discussions on long term development include multi-family residential and outdoor activities such as a trailhead or an outdoor/recreational commercial venture.	Artificial light and higher levels of toxins and pathogens along with clearing that limits potential sources of LWD contribute to lower quality functioning in this area, especially the parcels nearer the RR and along Old Cascade Highway. Ecological functions, in general, tend to improve farther away from the highway.	**Shoreline Residential Environment** **Residential development** **6.05.04.3** Residential development shall not be approved where flood control, shoreline protection measures or bulkheading will be required to create residential lots or site area. Residential development shall be located and designed to avoid the need for structural shore defense and flood protection works in the foreseeable future. **6.5.4.5** Prior to issuance of a building permit, plat or short plat or other shoreline development approval, the developer shall submit adequate plans for preservation of shore vegetation and for control of erosion and show that the development will result in no net loss of shoreline functions **6.5.4.6** Residential development shall be prohibited within floodways, wetlands and within other hazardous areas such as steep slopes and areas with unstable soils or geologic conditions.	The former Forest Service compound is owned by the Town of Skykomish so the town will be able to control development of that property.	As this area is almost fully built out, little, if any impacts will result from new development. Two parcels of 1.1 and 1.6 acres primarily consist of the creek, habitat or wetlands and are developed in the only buildable locations. None of the other parcels are large enough to divide under current zoning. Parcels could be redeveloped but are not likely to result in additional impervious surfaces. Although a single family residence does not require a Shoreline Substantial Development Permit, any development or redevelopment must still conform with the SMP. The proposed regulatory measures will ensure "no net loss" of shoreline function from future development impacts.

REACH C	Maloney Creek				
Existing Conditions	**Foreseeable Development**	**Function or Processes at Risk**	**SMP Environmental Designations, Policies & Regulations**	**Non-Regulatory Measures**	**Net Effect**
The creek bed itself and the area south of the creek, near the Town boundary along with the area below the RR right-of-way is heavily wooded and in a near natural state.	This area includes Maloney Creek, an associated wetland and fish and wildlife habitat. There is one developed parcel. Since most of these parcels are located in the creek bed or wetland, they are unlikely to be developed.	Most of this area has higher functioning ecological processes although sediment and hydrologic processes have been impacted with the modification to the stream channel in the early part of the 20th century. This has resulted in excessive sediment in the creek bed and additional flooding in the neighboring development. It also causes a loss of fish habitat in dry season because the smaller flows are diverted under the sediment.	**Urban Conservancy designation.** **4.04** The intent of the Urban Conservancy environment is to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. **Designation Criteria** **4.04.01.3** The potential for ecological restoration. **Management Policies** **4.4.2.1** Uses that preserve the natural character of the area or promote preservation of open space, flood plain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting. **4.4.2.2** Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "urban conservancy" designation. These standards shall ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values. **4.04.02.2** Single-family residential development may be allowed as a conditional use within the "urban conservancy" environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment. **Residential development** **6.05.04.6** Residential development shall be prohibited within floodways, wetlands and within other hazardous areas such as steep slopes and areas with unstable soils or geologic conditions. **Shoreline Habitat and Natural Systems Enhancement Projects Regulations** **7.06.03.1** Projects that address legitimate restoration needs and priorities and facilitate implementation of the Town's Shoreline Restoration Plan and Public Access Section shall be allowed.	A plan has been created and approved by the Town for the restoration of Maloney Creek. The plan, which has grant funding and is currently being implemented, includes removing excess sediment deposits, creating facilities for trapping excess sediment upstream and restoring fish habitat.	The proposed regulatory measures in combination with the non-regulatory measures and the environment designation will ensure "no net loss" of shoreline function from future development impacts.

REACH D	Town Park				
Existing Conditions	**Foreseeable Development**	**Function or Processes at Risk**	**SMP Environmental Designations, Policies & Regulations**	**Non-Regulatory Measures**	**Net Effect**
The park is wooded around the periphery and along the river. Three acres in the middle of the park consist of typical town park landscaping, including a softball field. The park also includes several structures, covered picnic areas and restroom facilities.	This well used and well-loved public amenity is very unlikely to be developed.	Even though about half of the park is lawn, ecological functions are minimally impacted. Park buildings are generally located more than 100 feet from the river.	**Urban Conservancy designation.** **4.04** The intent of the Urban Conservancy environment is to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. **Recreational Development Regulations** **6.4.3.1** Valuable shoreline resources and fragile or unique areas such as wetlands, estuaries and accretion beaches shall be used only for non-intensive and nonstructural recreation activities. **6.4.3.2** All permanent substantial recreational structures and facilities shall be located outside officially mapped floodways provided the Town may grant administrative exceptions for non-intensive minor accessory uses. **6.4.3.3** Substantial accessory use facilities, such as rest rooms, recreation halls and gymnasiums, commercial services, access roads and parking areas shall be setback from the OHWM unless it can be shown that such facilities are essentially shoreline-dependent. These areas may be linked to the shoreline by walkways. **6.04.03.6** Motorized vehicular access is prohibited on beaches, bars, spits and stream beds. **6.04.03.8** Proposals for developments shall include a landscape plan that utilizes primarily native, self-sustaining vegetation. The removal of on-site native vegetation shall be limited to the minimum necessary for the development of campsites, selected viewpoints or other permitted structures or facilities (see Clearing and Grading).	The **Skykomish Parks, Trails & Open Space Plan** identifies the park as the Town's only large recreational facility and says it "has since been used by the Town for community activities, such as camping, picnicking, softball, the Skykomish Old Timer's activities, and the annual Fourth of July barbeque. Some of the park's amenities include a covered picnic area with a full-size refrigerator, cooking countertops, barbeque pits, and picnic tables."	The proposed regulatory measures in combination with the non-regulatory measures and the environment designation will ensure "no net loss" of shoreline function from future development impacts.

B.5 ECOLOGICAL FUNCTIONS AT RISK FROM FUTURE DEVELOPMENTS

Habitat

Three federally listed species of birds are known to occur in the general vicinity of the town including the bald eagle, marbled murrelet, and northern spotted owl. Listed mammal species, Canada lynx, gray wolf, and grizzly bear, may potentially occur in the vicinity however, no sightings of these species have been documented. Other animals that may use the shoreline habitat in the area include, the common crow, coyote, raccoon, mink, deer, squirrel, and other small rodents.

Three threatened or endangered species of fish are present in the Skykomish River, Puget Sound Chinook salmon, bull trout, and steelhead. Coho salmon, listed as a federal candidate species, is also present. Juvenile Chinook and juvenile bull trout rear in the area. Other fish found in the Skykomish River and Maloney Creek are rainbow trout and cutthroat trout.

Vegetation

The Skykomish area supports growth of coniferous forests dominated by Douglas fir, western hemlock, and western red cedar. Common understory plants include swordfern, salal, salmonberry, red osier dogwood, vine maple and huckleberry. Also found in the vicinity is mid-seral hardwood trees and deciduous shrubs including second growth black cottonwood, red alder, and big-leaf maple. Native herbaceous plant species present within the area include large- leaf avens, small-fruited bulrush, piggy-back plant, and common horsetail. Reed canary grass is also present. Preservation of native vegetation helps protect watershed processes, reduces flood damages, and provides open space for the Town.

Wetlands

Wetland areas have been identified on the western edge of town, north of the river, and near Maloney Creek. These wetlands are all directly connected to either the Skykomish River or Maloney Creek and are important for flood storage and distribution of nutrients.

Floodplains

All four reaches are dominated by floodplains and much of reaches A, B and D are in the floodway. The Town's Flood Damage Prevention code addresses flood prevention and mitigation. Floodplain management is important for maintaining habitats and wetlands, ecological functions need to be considered in flood control projects and in pursuing non-structural alternatives. Developing floodplain management policies which help minimize more vulnerable development and encourage more compatible uses will also help maintain habitats and wetlands.

B.6 ANTICIPATED BENEFICIAL EFFECTS

Maloney Creek Restoration

The Maloney Creek Restoration study focused on the lower 0.5 miles of Maloney Creek extending upstream from its mouth to the point where that channel abruptly transitions from

low to high gradient. It was at this location that Maloney Creek was diverted from its historical channel in 1912 so that the stream would no longer run directly through town. This new alignment reduced the grade of lower Maloney Creek further, causing it to flow over a greater distance with less energy than it did formerly. As a consequence, small rocks and gravel that previously would have been transported through the reach have settled out, causing the channel to elevate over time. Reduction of stream power and elevation of the stream bed have reduced the ability of the stream to transport sediment, steadily increasing the likelihood that high flows will overtop the banks of lower Maloney Creek and flood the town.

In addition to increasing the risk of localized flooding, the excessive buildup of sediment has also degraded the quality of fish habitat in the stream. Maloney Creek is home to Coho salmon and steelhead trout, which spawn and rear in the stream for one or two years before migrating to Puget Sound.

Maloney Creek used to flow year round all the way to its confluence with the Skykomish River. Due to the increase in the elevation of the streambed caused by sediment deposition, the stream has become disconnected from the underlying water table and, as a result, now flows subsurface in late summer as flows attenuate and water seeps through the porous streambed. This poses obvious problems for fish. Not only are the smaller fish likely to become stranded and die as pools become isolated and dry up, but early arriving adult salmon must wait until the fall rains replenish the stream's flow, enabling them to swim upstream to their spawning grounds.

In response to the problems described above this study was commissioned by the Town that resulted in the restoration plan. Recognizing that effective sediment management is essential to reducing flood risk and improving fish habitat, three processes were proposed that would significantly reduce the amount of sediment transported to and deposited in lower Maloney Creek, control the deposition and facilitate the removal of sediment that is delivered to the project area, and create desirable habitat conditions while ensuring that the modified channel is reasonably stable and requires minimal long-term maintenance.

Sediment capture and removal by means of a sediment trap constructed near the former US Forest Service compound will reduce sediment deposits and enable removal of sediment. In addition to constructing a sediment trap, the lower Maloney Creek channel will be modified. Modifications include excavating and realigning the channel to increase its hydraulic capacity, removing material from selected sections of the floodplain to increase overbank storage area, and anchoring large wood at regular intervals along the stream banks to create and maintain desired habitat and sediment transport conditions. The new channel will convey flows up to the mean annual flood discharge within its banks. The design will also allow higher flows to overtop the bank of the channel, so that water spills onto low bench areas. A berm will be constructed parallel to the channel on the north side to confine all but the highest magnitude flood flows to the Maloney Creek channel.

Large wood structures will be placed at selected locations along the channel to maintain the deeper channel, protect adjacent banks, and encourage flows into off-channel floodplain and wetland areas that will serve as flood water storage areas during high flow events. The anchored wood structures will be designed and deliberately located to dissipate energy, thereby reducing the threat of flooding and channel migration. They will also help reconnect the main channel with floodplains and wetlands, scour holding pools, and generally increase habitat complexity.

The design may be expanded to incorporate desirable recreation elements, such as a trail system or other public access facilities.

Clean up/Remediation

Skykomish supported maintenance and fueling operations for the BNSF Railway beginning in the 1890s. Then a bustling railroad town, trains stopped for refueling before making the long climb over Steven's Pass. Those activities resulted in the release of oil and heavy metals into the environment, contaminating surface soils and groundwater. The contamination has spread under the town through the groundwater, and into the Skykomish River.

For a number of years, the Washington State Department of Ecology, and BNSF Railway Company have been working with the Town of Skykomish to determine the most effective approach for cleaning up the contamination. In June 2006, work began to excavate portions of the existing levee and nearby upland areas. Significant environmental cleanup work will continue through at least 2011. As the cleanup proceeds, contaminated soils are loaded out by rail cars, and replaced with clean soils. Excess oil is also removed, transported out, and treated for re-use at a separate facility. This cleanup effort should result in significant improvement to water quality functions by removing the oil from the water table and preventing it from seeping into the Skykomish River.

Wastewater Treatment System

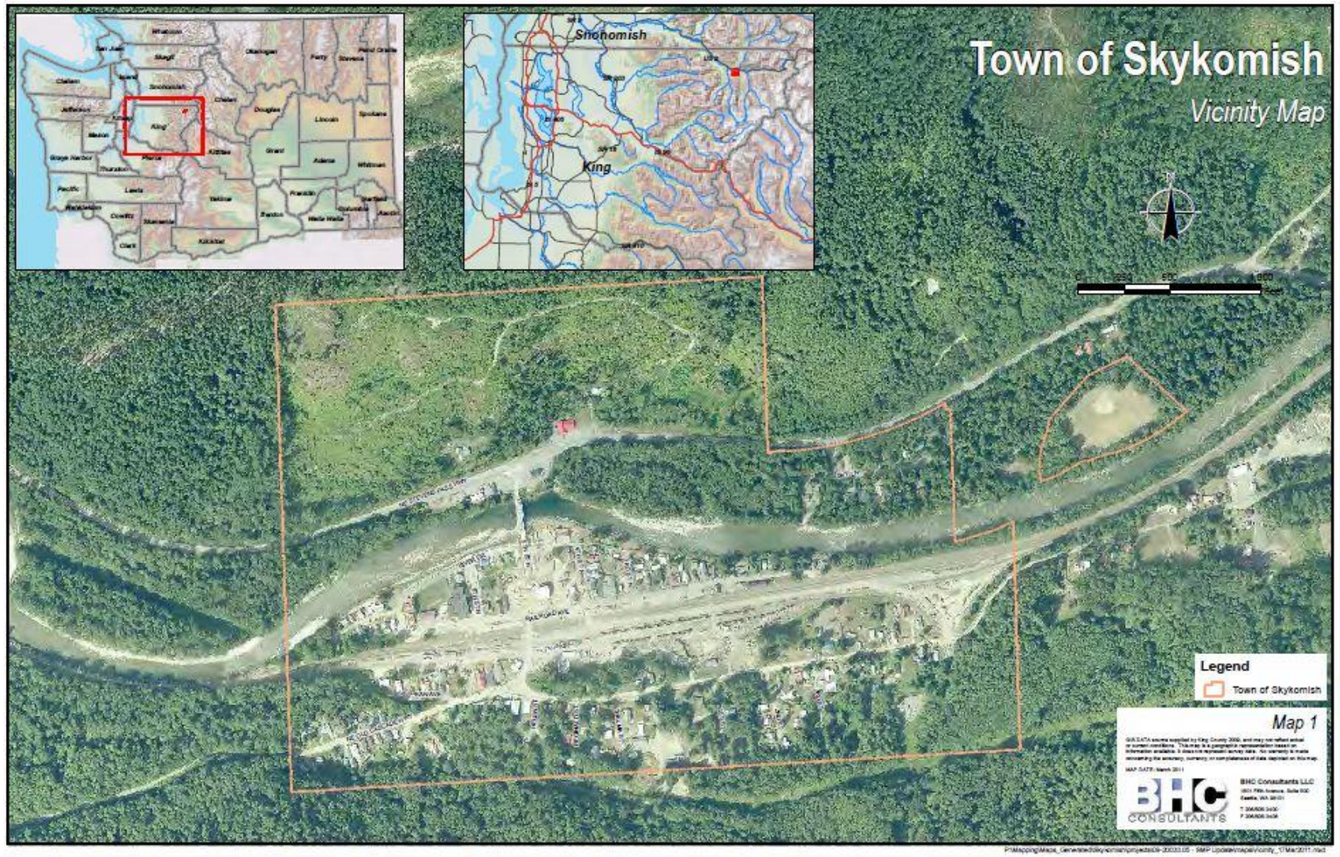
The Town is in the process of constructing a new wastewater system that will eliminate the use of almost all septic systems in town. Failing and substandard septic systems currently discharge raw or incompletely treated wastewater to groundwater and eventually to Maloney Creek and the Skykomish River. The construction and operation of the new treatment system will reduce Biological Oxygen Demand (BOD), nutrients, bacterial, organic and suspended solids discharges to groundwater that may reach Maloney Creek and the Skykomish River. Treatment of sedimentation tank effluent to secondary standards and discharge of this treated effluent to a large community drain field approximately 1/3 mile south of the Skykomish River will reduce or eliminate pollutants reaching groundwater and the River.

B.7 NO NET LOSS SUMMARY

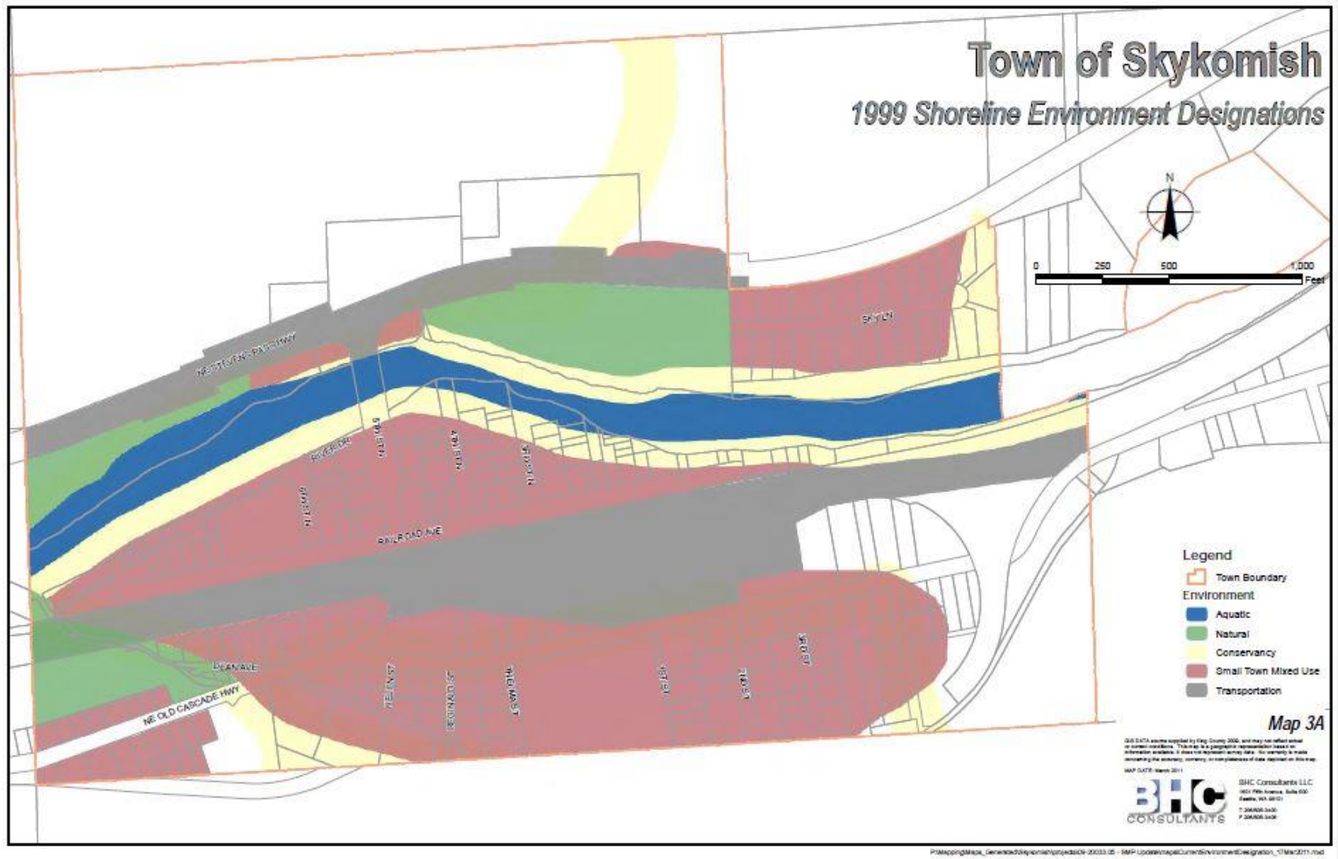
How the Town of Skykomish achieves “no net loss” in its Shoreline Master Program is demonstrated in the Detailed Reach Analysis Tables in section B.04 above. The tables bring together information gathered for the inventory and characterization, shoreline use analysis, environmental designations and the policies and regulations of the updated SMP. The “net effect” column shows the conclusions that were drawn based on the information. Restoration opportunities and current restoration projects are detailed in the Chapter 10 Restoration Plan.

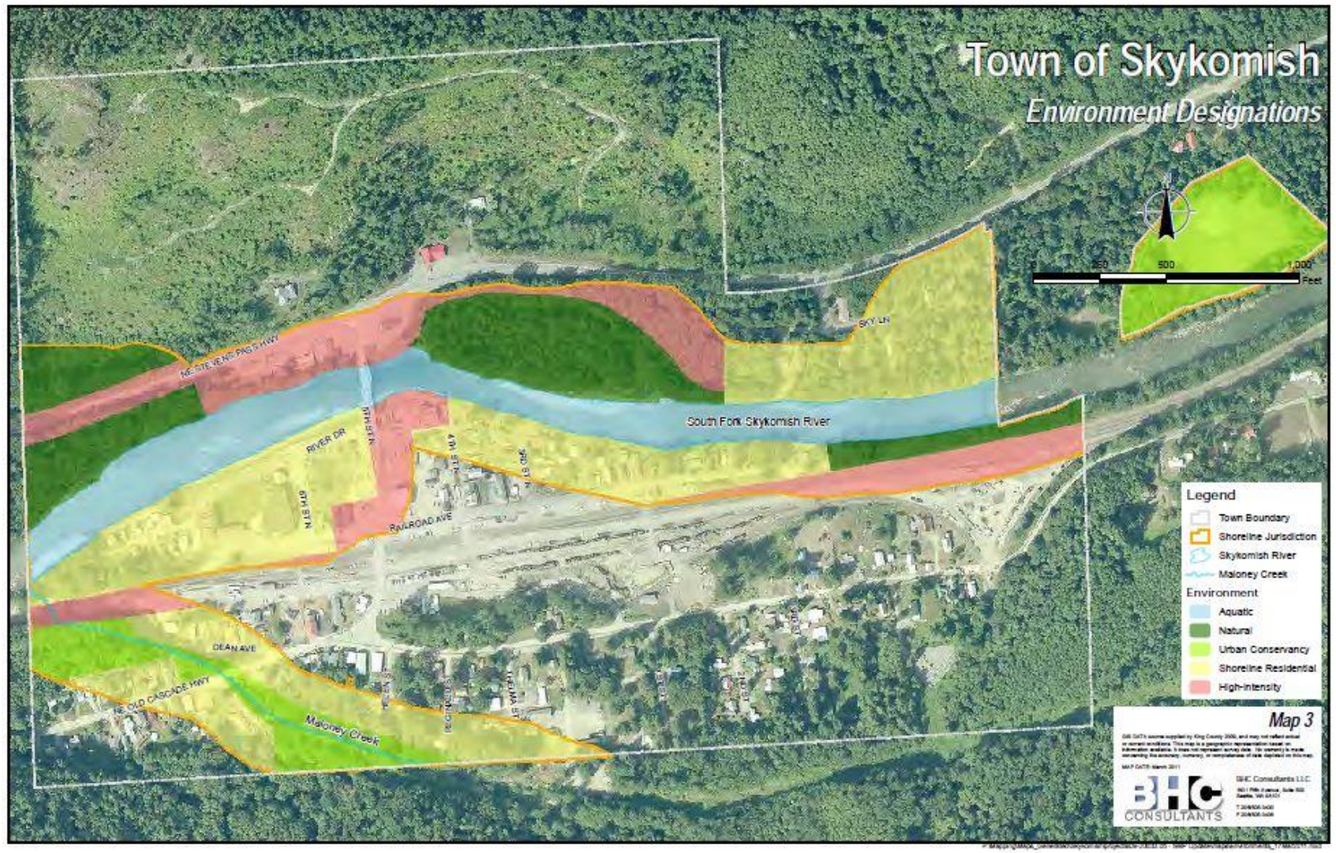
Between the massive cleanup effort underway by BNSF, the installation of the new wastewater treatment system and the restoration of Maloney Creek and the associated wetland, Skykomish shorelines and their ecological functions will be significantly enhanced. Those projects alone, in the small Town of Skykomish may be enough to overcome almost any development activity impacts in the foreseeable future. Coupled with the updated SMP policies and regulations and the Town’s permitting process this update assures “no net loss.”

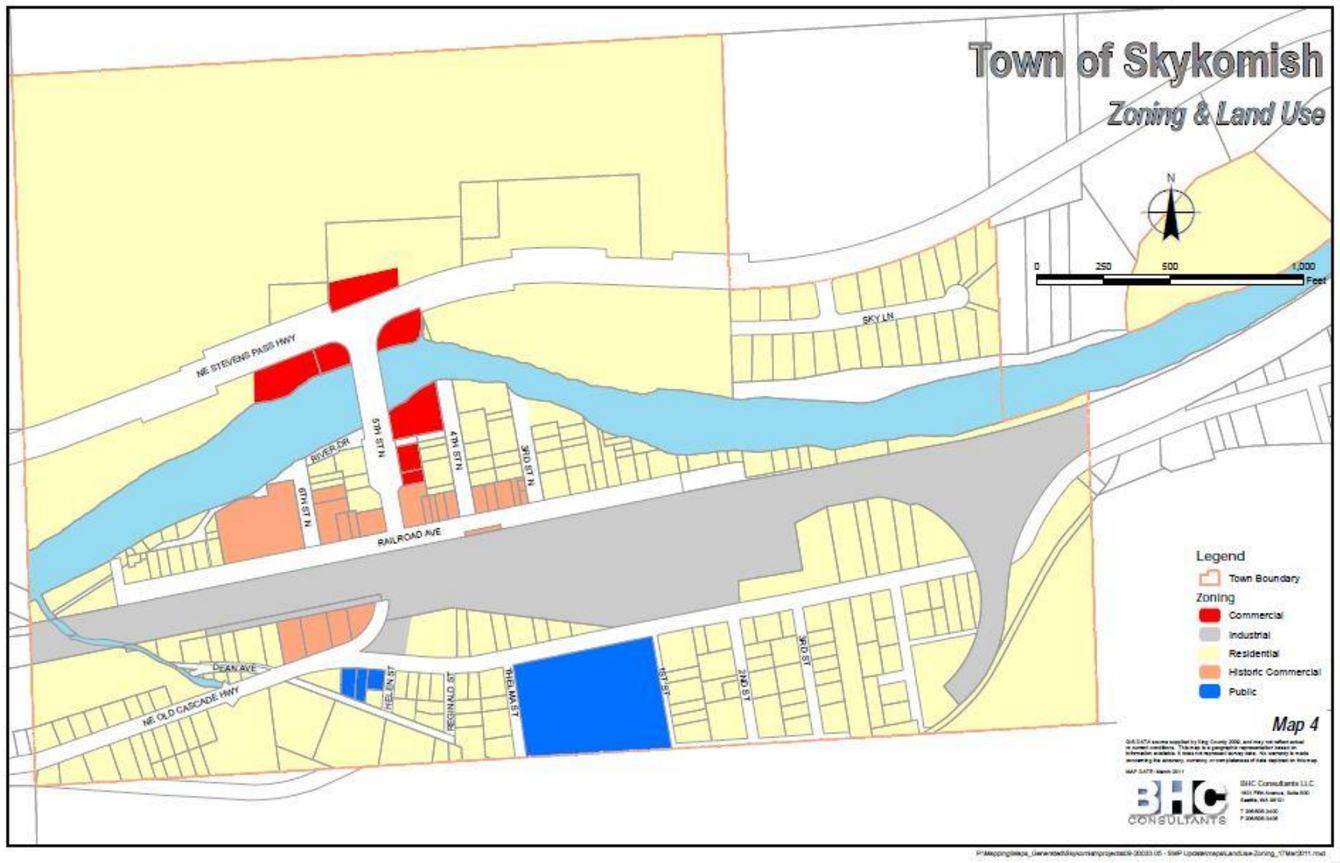
Appendix C MAP FOLIO

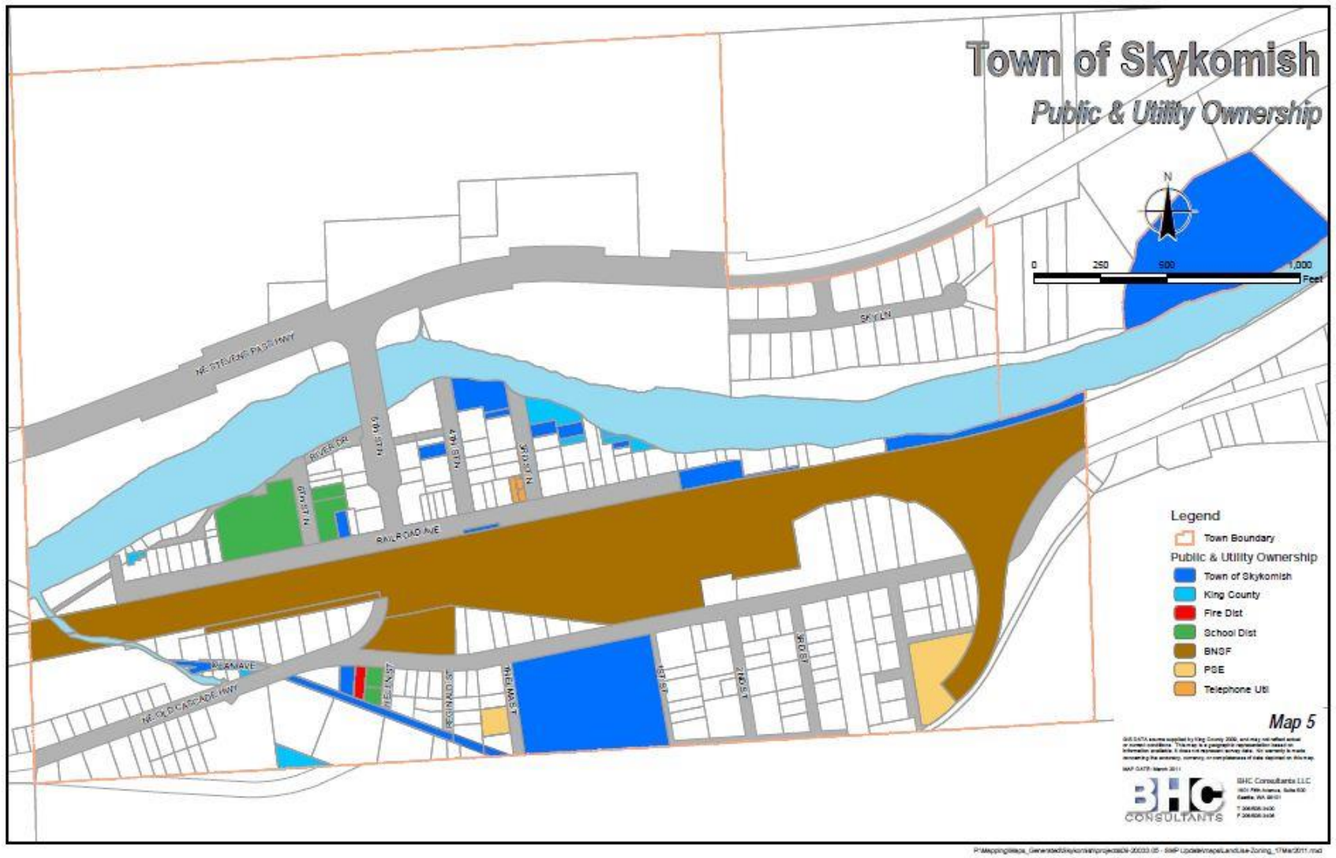

Town of Skykomish
Vicinity Map
Snohomish
King
Legend
Town of Skykomish
Map 1
BHC Consultants LLC
BHC CONSULTANTS

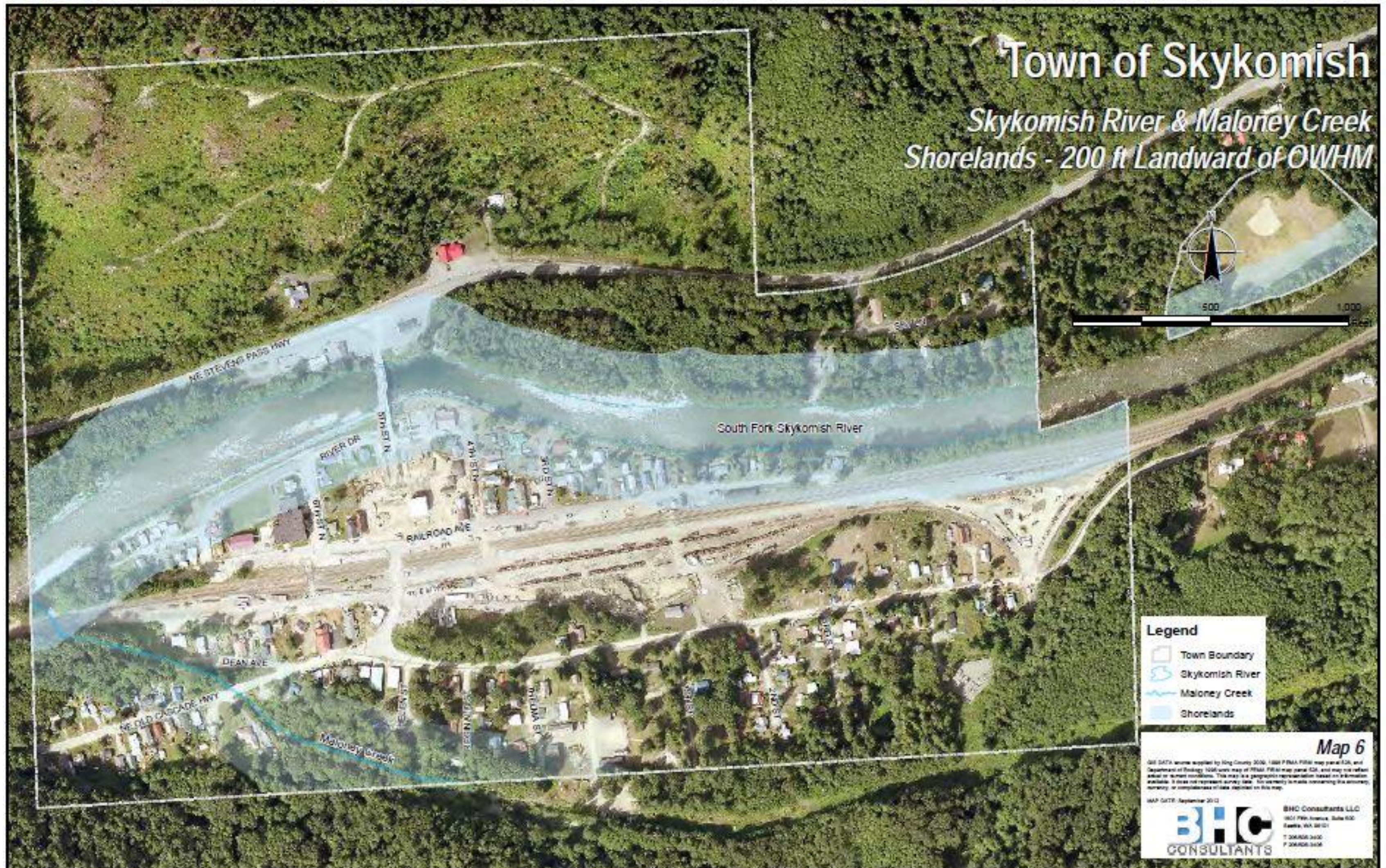

Town of Skykomish
Shoreline of Statewide Significance
Begin Skykomish River as
Shoreline of Statewide Significance
0
500
1,000
2,000
Feet
South Fork Skykomish River
Legend
Town of Skykomish
Map 2
BHC CONSULTANTS

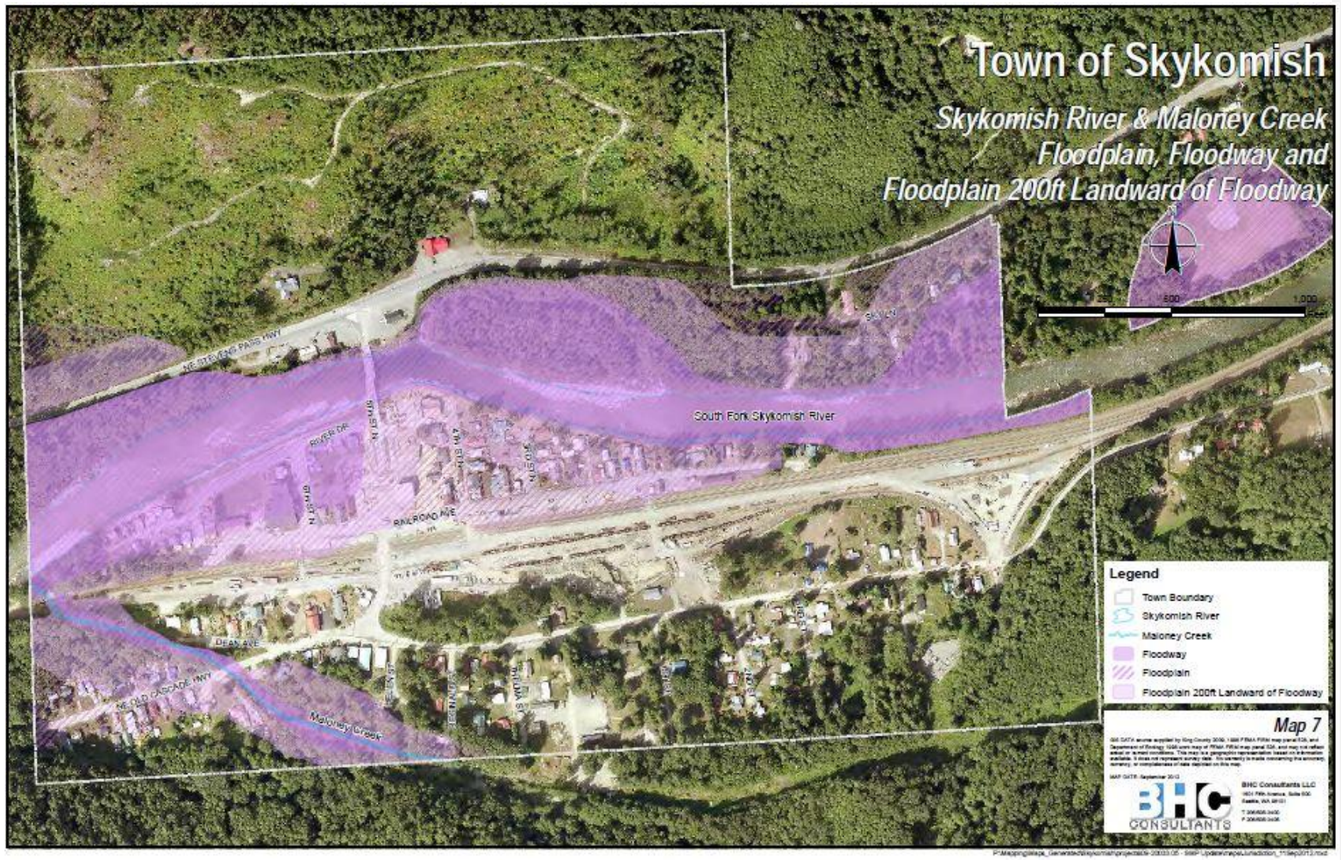

Town of Skykomish
1999 Shoreline Environment Designations
N
0
250
500
1,000
Feet
Legend
Town Boundary
Environment
Aquatic
Natural
Conservancy
Small Town Mixed Use
Transportation
Map 3A
BHC CONSULTANTS

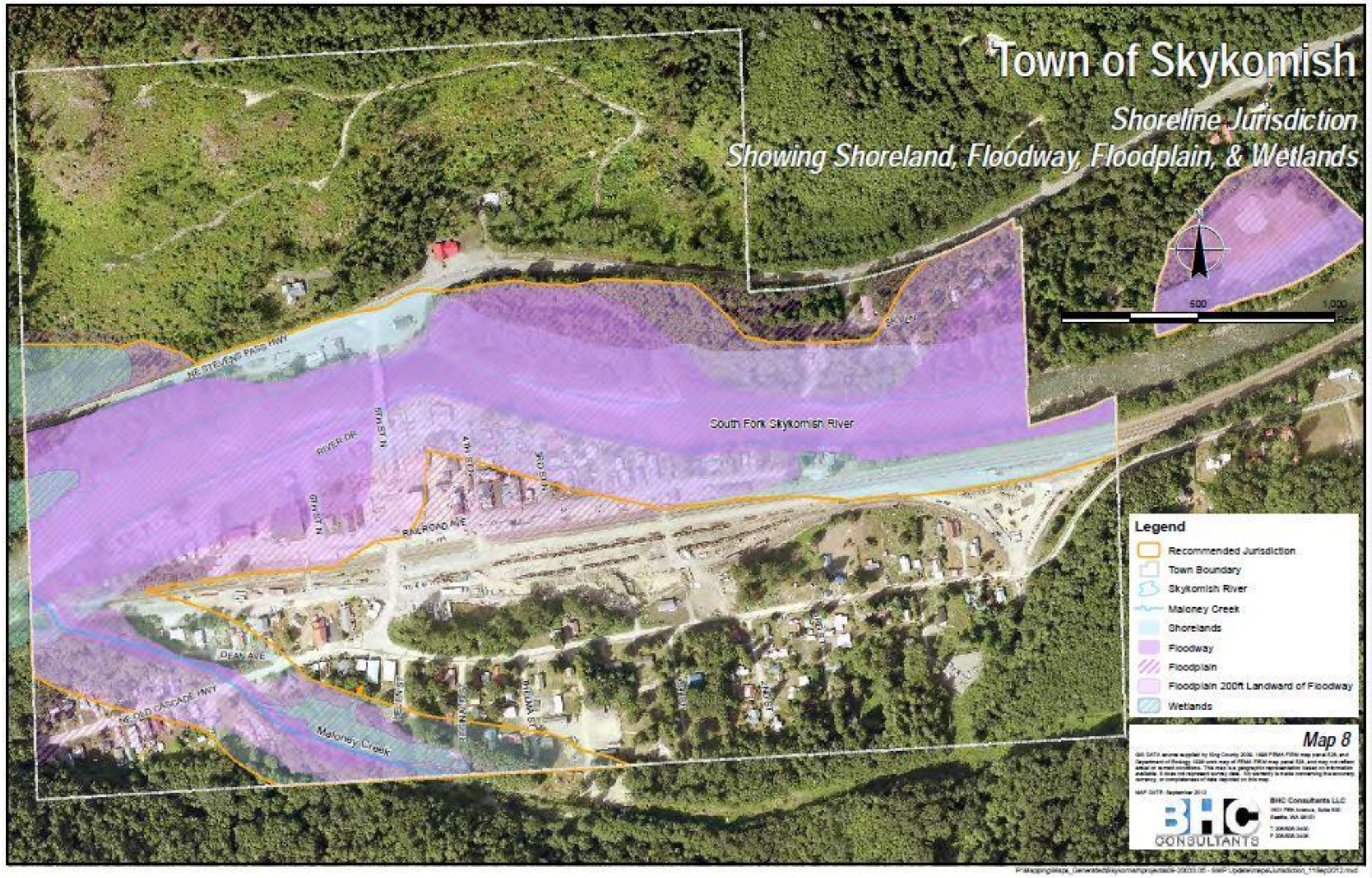

Town of Skykomish
Environment Designations
South Fork Skykomish River
Maloney Creek
Legend
Town Boundary
Shoreline Jurisdiction
Skykomish River
Maloney Creek
Environment
Aquatic
Natural
Urban Conservancy
Shoreline Residential
High-intensity
Map 3
BHC CONSULTANTS


Town of Skykomish
Zoning & Land Use
N
0
250
500
1,000
Feet
NE STEVENS PASS HWY
SKY LN
RIVER DR
5TH ST N
4TH ST N
3RD ST N
RAILROAD AVE
6TH ST N
DEAN AVE
NE OLD CASCADE HWY
REL IN ST
REGINALD ST
RHODA ST
1ST ST
2ND ST
3RD ST
Legend
Town Boundary
Zoning
Commercial
Industrial
Residential
Historic Commercial
Public
Map 4
BHC CONSULTANTS

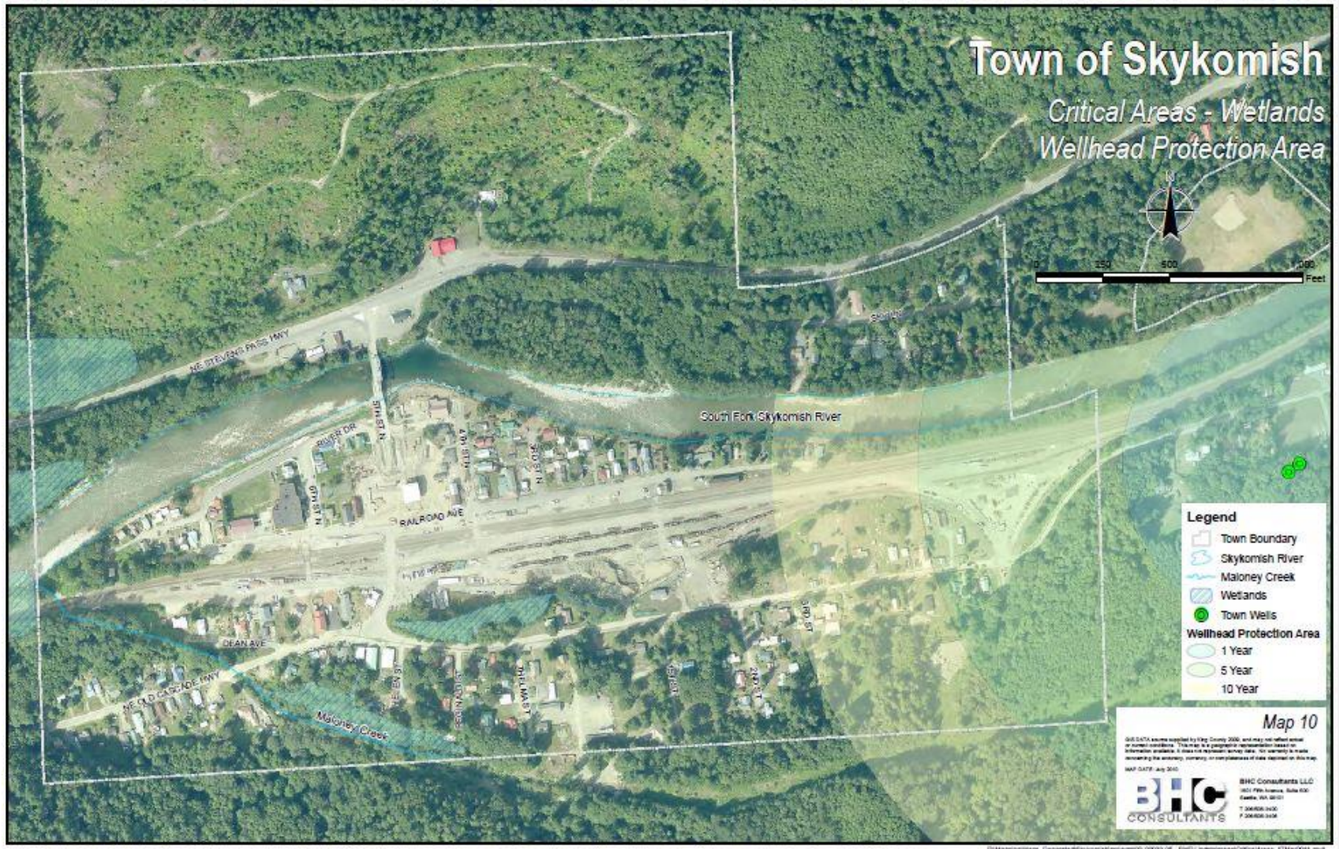

Town of Skykomish
Public & Utility Ownership
N
0
250
500
1,000
Feet
NE STEVENS PASS HWY
RAILROAD AVE
NE MAIN AVE
NE CASCADE HWY
Legend
Town Boundary
Public & Utility Ownership
Town of Skykomish
King County
Fire Dist
School Dist
BNSF
PSE
Telephone Util
Map 5
BHC CONSULTANTS


Town of Skykomish
Skykomish River & Maloney Creek
Shorelands - 200 ft Landward of OWHM
500
1,000
NE STEVENS PASS HWY
South Fork Skykomish River
RIVER DR
RAILROAD AVE
DEAN AVE
Maloney Creek
Legend
Town Boundary
Skykomish River
Maloney Creek
Shorelands
Map 6
BHC
CONSULTANTS
BHC Consultants LLC


Town of Skykomish
Skykomish River & Maloney Creek
Floodplain, Floodway and
Floodplain 200ft Landward of Floodway
South Fork Skykomish River
NE STEVENS PASS HWY
RIVER DR
N 1ST ST
2ND STREET
RAILROAD AVE
DEAN AVE
NE OLD CASCADE HWY
Maloney Creek
Legend
Town Boundary
Skykomish River
Maloney Creek
Floodway
Floodplain
Floodplain 200ft Landward of Floodway
Map 7
BHC CONSULTANTS


Town of Skykomish
Shoreline Jurisdiction
Showing Shoreland, Floodway, Floodplain, & Wetlands
South Fork Skykomish River
NE STEVENS PASS HWY
RIVER DR
5TH ST N
4TH ST N
3RD ST N
6TH ST N
RAILROAD AVE
DEAN AVE
NE OLD CASCADE HWY
Maloney Creek
500
1,000
Legend
Recommended Jurisdiction
Town Boundary
Skykomish River
Maloney Creek
Shorelands
Floodway
Floodplain
Floodplain 200ft Landward of Floodway
Wetlands
Map 8
BHC CONSULTANTS
BHC Consultants LLC

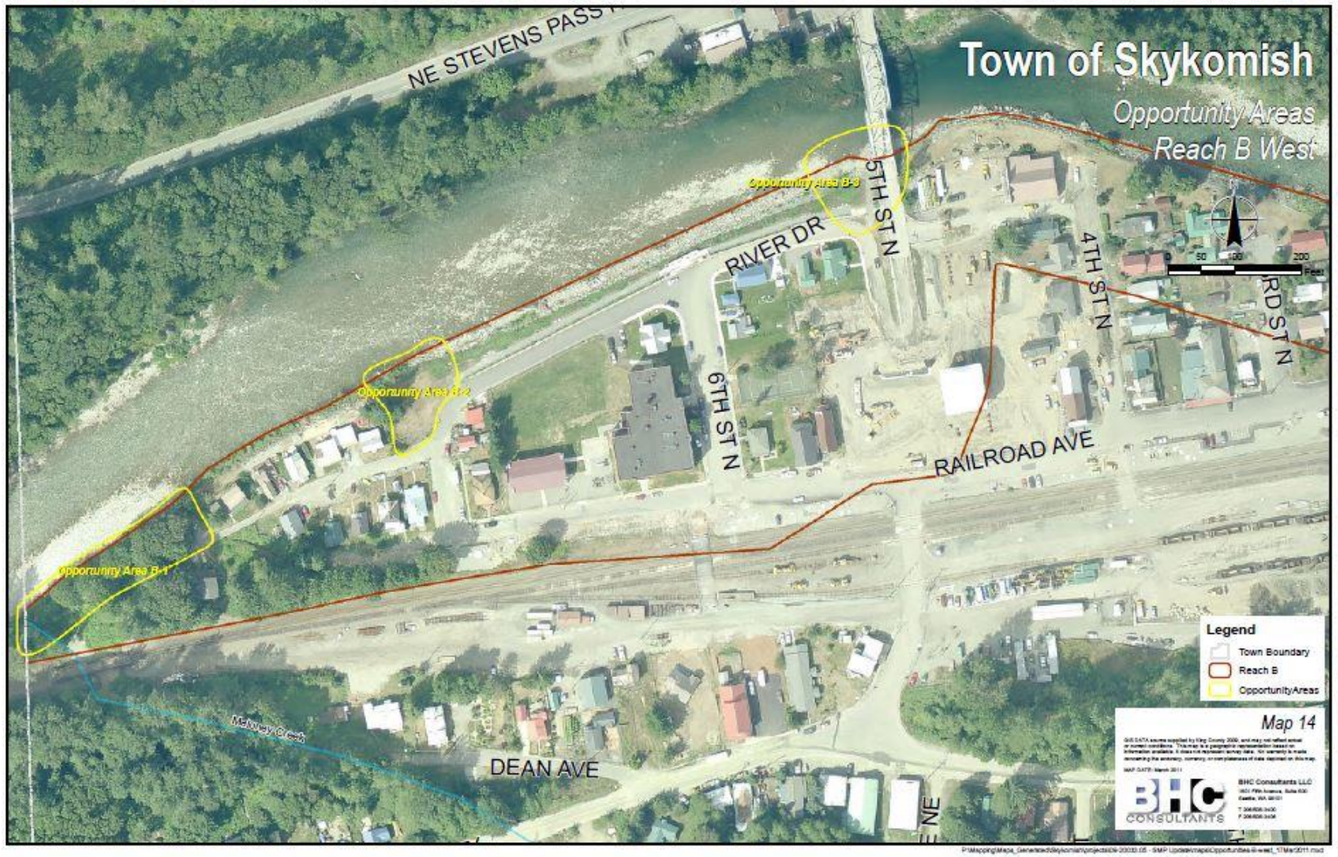

Town of Skykomish
Shoreline Jurisdiction
South Fork Skykomish River
Maloney Creek
Legend
Recommended Jurisdiction
Town Boundary
Skykomish River
Maloney Creek
Map 9
BHC Consultants LLC
CONSULTANTS

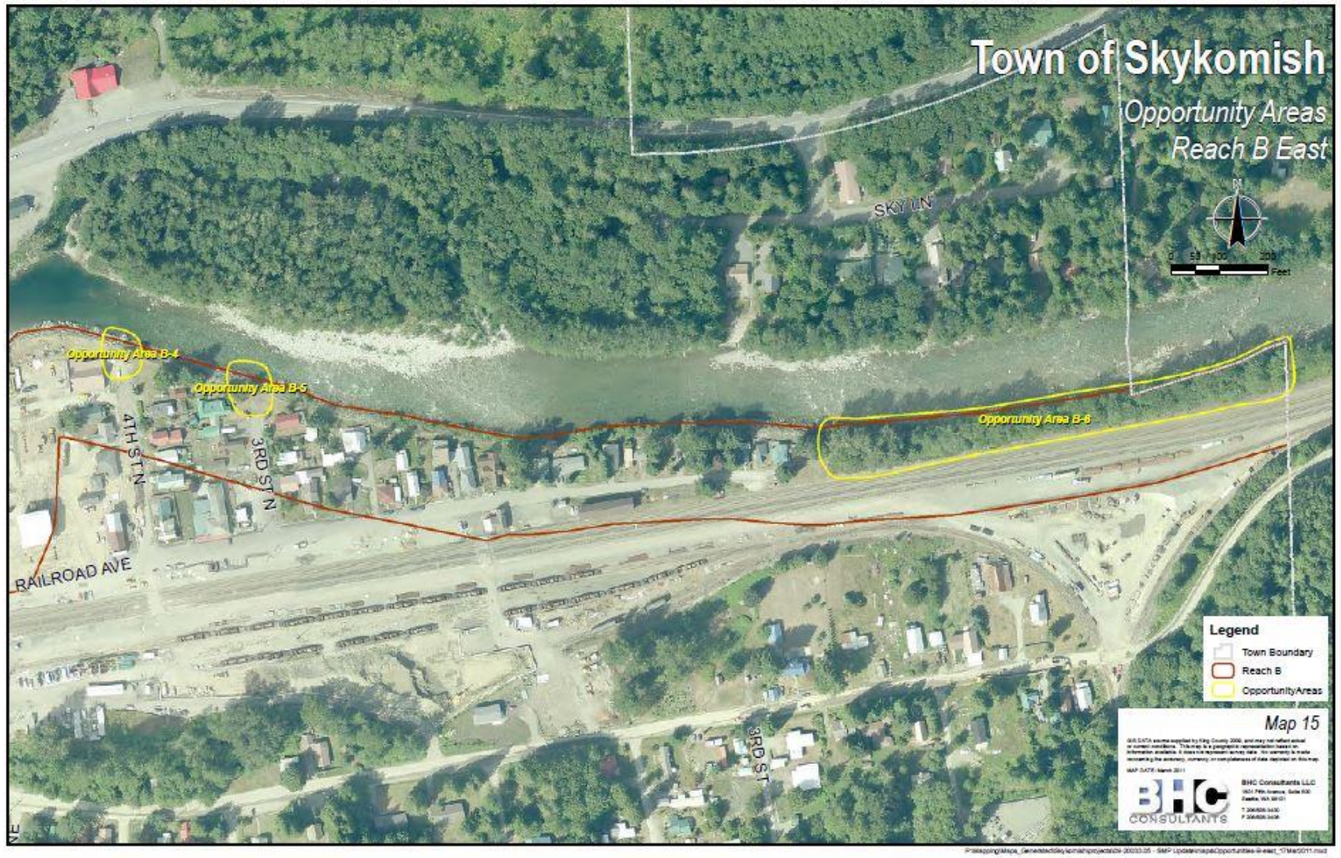

Town of Skykomish
Critical Areas - Wetlands
Wellhead Protection Area
South Fork Skykomish River
NE STEVENS PASS HWY
RAILROAD AVE
DEAN AVE
NE OLD CASCADE HWY
Maloney Creek
Legend
Town Boundary
Skykomish River
Maloney Creek
Wetlands
Town Wells
Wellhead Protection Area
1 Year
5 Year
10 Year
Map 10
BHC CONSULTANTS


Town of Skykomish
Topography
0 250 500 1,000 Feet
South Fork Skykomish River
RAILROAD AVE
DEAN AVE
NE OLD CASCADE HWY
Maloney Creek
Legend
Town Boundary
Skykomish River
Maloney Creek
5 ft Contours
Map 11
BHC CONSULTANTS


Town of Skykomish
Planning Reaches
A
B
C
D
NE STEVENS PASS HWY
RAILROAD AVE
DEAN AVE
0
150
500
1,000
Feet
Legend
Town Boundary
Reach
A - North Bank Skykomish River
B - South Bank Skykomish River
C - Maloney Creek
D - Town Park
Map 12
BHC Consultants LLC
BHC
CONSULTANTS

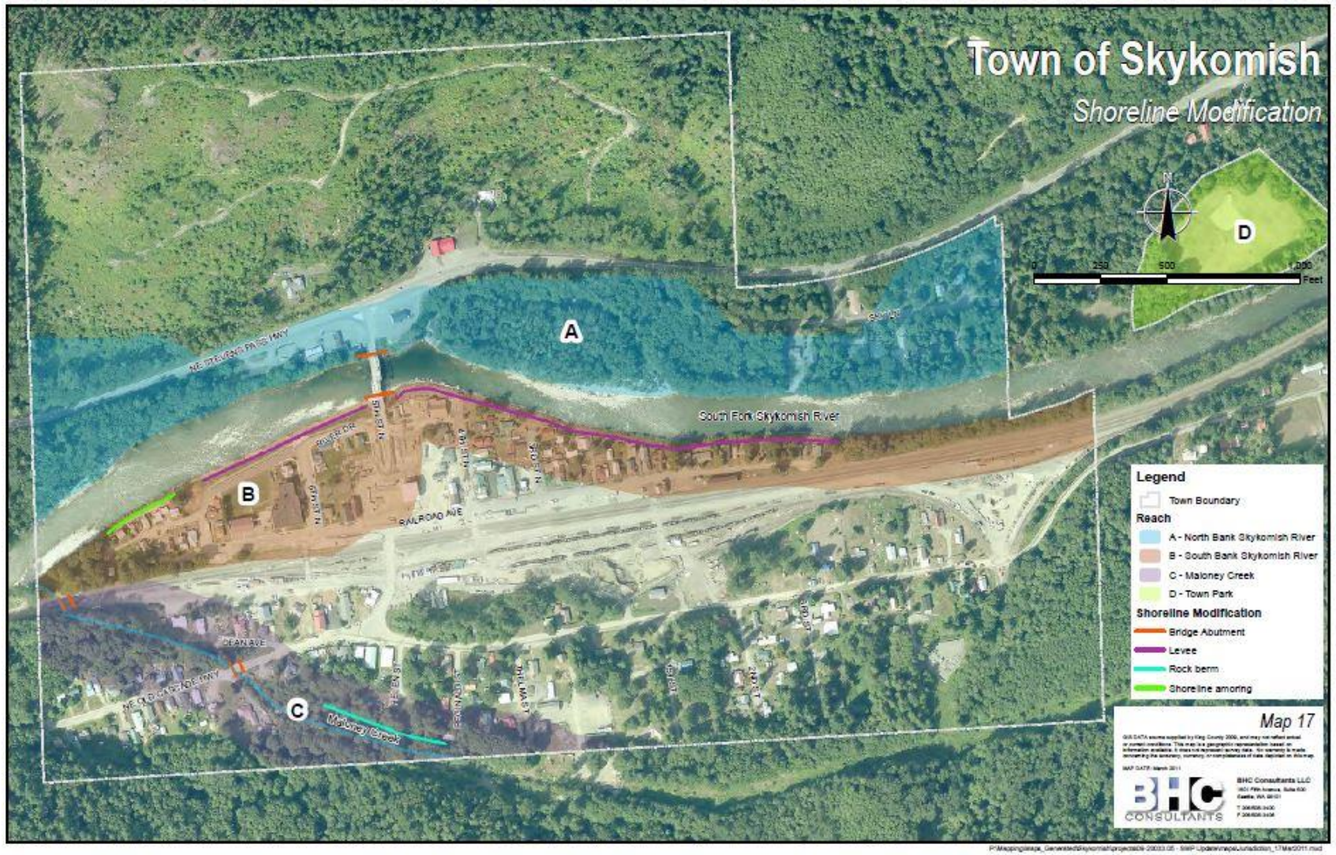

Town of Skykomish
Opportunity Areas
Reach A
0 125 250 500
Feet
NE STEVENS PASS HWY
Opportunity Area A-1
Opportunity Area A-2
RIVER DR
5TH ST N
4TH ST N
3RD ST N
6TH ST N
RAILROAD AVE
SKY LN
McLucy Creek
Legend
Town Boundary
Reach A
OpportunityAreas
Map 13
BHC Consultants LLC
BHC CONSULTANTS

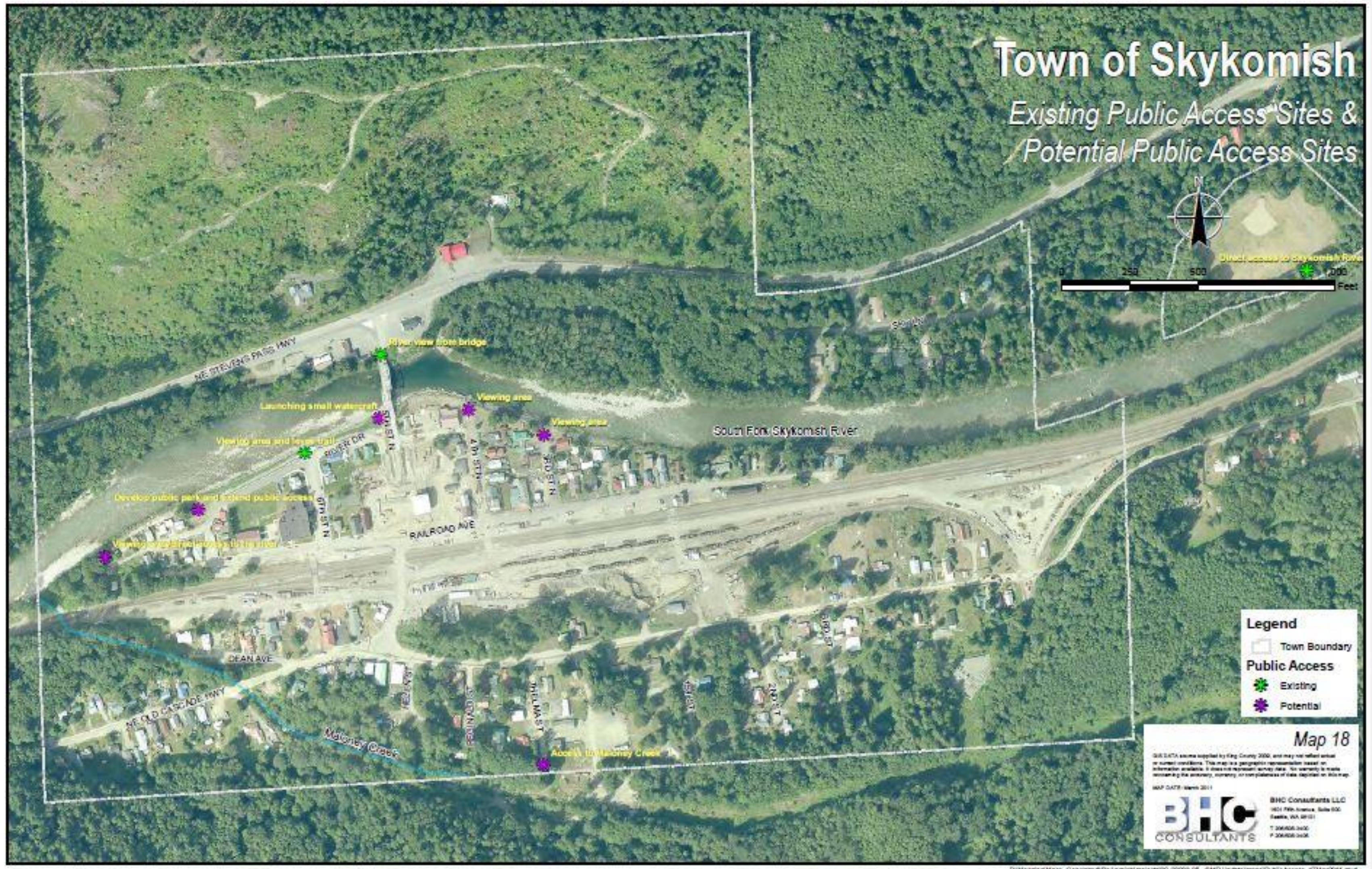

Town of Skykomish
Opportunity Areas
Reach B West
NE STEVENS PASS
RIVER DR
5TH ST N
4TH ST N
RD ST N
6TH ST N
RAILROAD AVE
DEAN AVE
Opportunity Area B-1
Opportunity Area B-2
Opportunity Area B-3
McKinney Creek
Legend
Town Boundary
Reach B
Opportunity Areas
Map 14
BHC CONSULTANTS

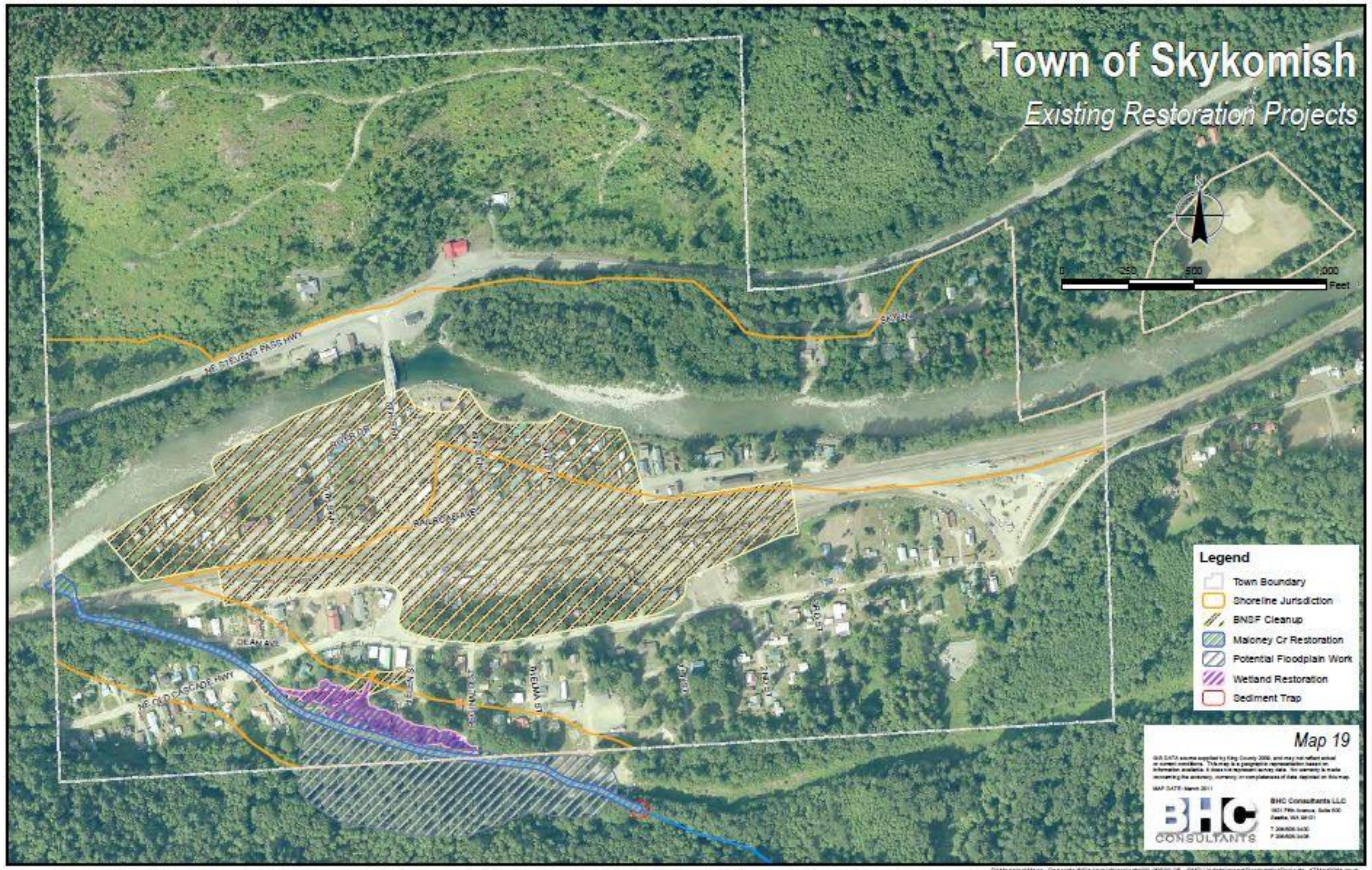

Town of Skykomish
Opportunity Areas
Reach B East
SKY LN
Opportunity Area B-4
Opportunity Area B-5
Opportunity Area B-6
4TH ST N
3RD ST N
RAILROAD AVE
3RD ST
Legend
Town Boundary
Reach B
OpportunityAreas
Map 15
BHC CONSULTANTS


Town of Skykomish
Opportunity Areas
Reach D
0
100
200
400
Feet
Legend
Reach D - Town Park
OpportunityAreas
Map 16A
BHC Consultants LLC
BHC CONSULTANTS


Town of Skykomish
Opportunity Areas
Reach C
RAILROAD AVE
DEAN AVE
NE OLD CASCADE HWY
HELEN ST
REGNALD ST
THELMA ST
Opportunity Area C-3
Opportunity Area C-2
Opportunity Area C-1
Maloney Creek
0 50 100 200
Feet
Legend
Town Boundary
Reach C
OpportunityAreas
Map 16
BHC CONSULTANTS
BHC Consultants LLC


Town of Skykomish
Shoreline Modification
A
B
C
D
South Fork Skykomish River
Maloney Creek
NE STEVENS PASS HWY
RAILROAD AVE
DEAN AVE
0 250 500 1,000 Feet
Legend
Town Boundary
Reach
A - North Bank Skykomish River
B - South Bank Skykomish River
C - Maloney Creek
D - Town Park
Shoreline Modification
Bridge Abutment
Levee
Rock berm
Shoreline armoring
Map 17
BHC CONSULTANTS


Town of Skykomish
Existing Public Access Sites &
Potential Public Access Sites
Feet
River view from bridge
Launching small watercraft
Viewing area
Viewing area
Viewing area and levee trail
Develop public park and extend public access
Access to Maloney Creek
South Fork Skykomish River
NE STEVENS PASS HWY
RIVER DR
5TH ST N
4TH ST N
3RD ST N
6TH ST N
RAILROAD AVE
DEAN AVE
NE OLD CASCADE HWY
Maloney Creek
Legend
Town Boundary
Public Access
Existing
Potential
Map 18
MAP DATE: March 2011
CONSULTANTS
BHC Consultants LLC


Town of Skykomish
Existing Restoration Projects
NE STEVENS PASS HWY
NE OLD CASCADE HWY
Legend
Town Boundary
Shoreline Jurisdiction
BNSF Cleanup
Maloney Cr Restoration
Potential Floodplain Work
Wetland Restoration
Sediment Trap
Map 19
BHC Consultants LLC
BHC CONSULTANTS

Appendix D FLOODWAY MAPPING SOURCES

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Northwest Regionul Office • 3 190 160th Avenue S£ • Bellevue, Washington 90008-5452 • (d2S) 649-7h0O

April 21, 2009

Mr. Clint
Stanovsky
SU komish
Town Hall
P.O. Box 308
Skykomish, WA
98288

Dear Mr.
Stanovsky:

This follows our telephone discussions regarding the Unnumbered Zone between the Skykomish River and Maloney Creek in the Town of Skykomish. You expressed frustration over this designation because it could bring a minor trenching project into shoreline jurisdiction.

As I stated, the project, which in simple terms will result in trenching along Old Cascade Highway from around Dean Avenue eastward along Old Cascade Highway, will have no restrictions from the perspective of the Town's Flood Damage Prevention Ordinance No. 225 because the trenching will be replaced to basically its original configuration. Your concern was with regard to shoreline implications.

The enclosed photocopy of FEMA FIRM Panel 528, dated May 16, 1995, shows a shaded X Zone in the vicinity of your project. As you know, the March 30, 1998 revision of Panel 528 shows an Unnumbered A Zone here. The 1998 revision resulted from a study performed by firm of Harper Righellis, Inc. for King County.

I obtained a copy of the Draft world map produced by King County. This map was the basis for the FEMA revision of Panel 528 in 1998. As you can see, the area in question was delineated as a 500-year flood zone and should have had a shaded X Zone designation. The 100-year flood boundary from the Skykoinish River extends southerly only'to the railroad embankment.
Maloney Creek has never been restudied. This information, together with the topographic information you have showing the elevations in the vicinity of your project to be substantially higher than corresponding Base Flood Elevations from

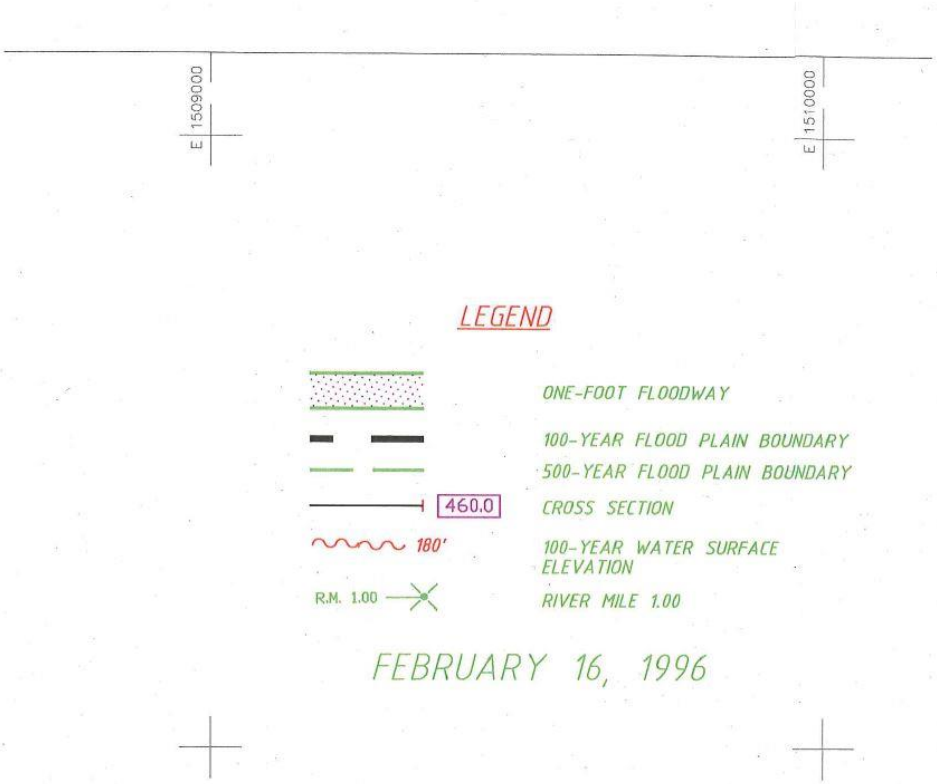
the Skykomish River and Maloney Creek, should obviate the need to consider the project site to be within shoreline jurisdiction.

If you have any questions, please feel free to contact me at (425)

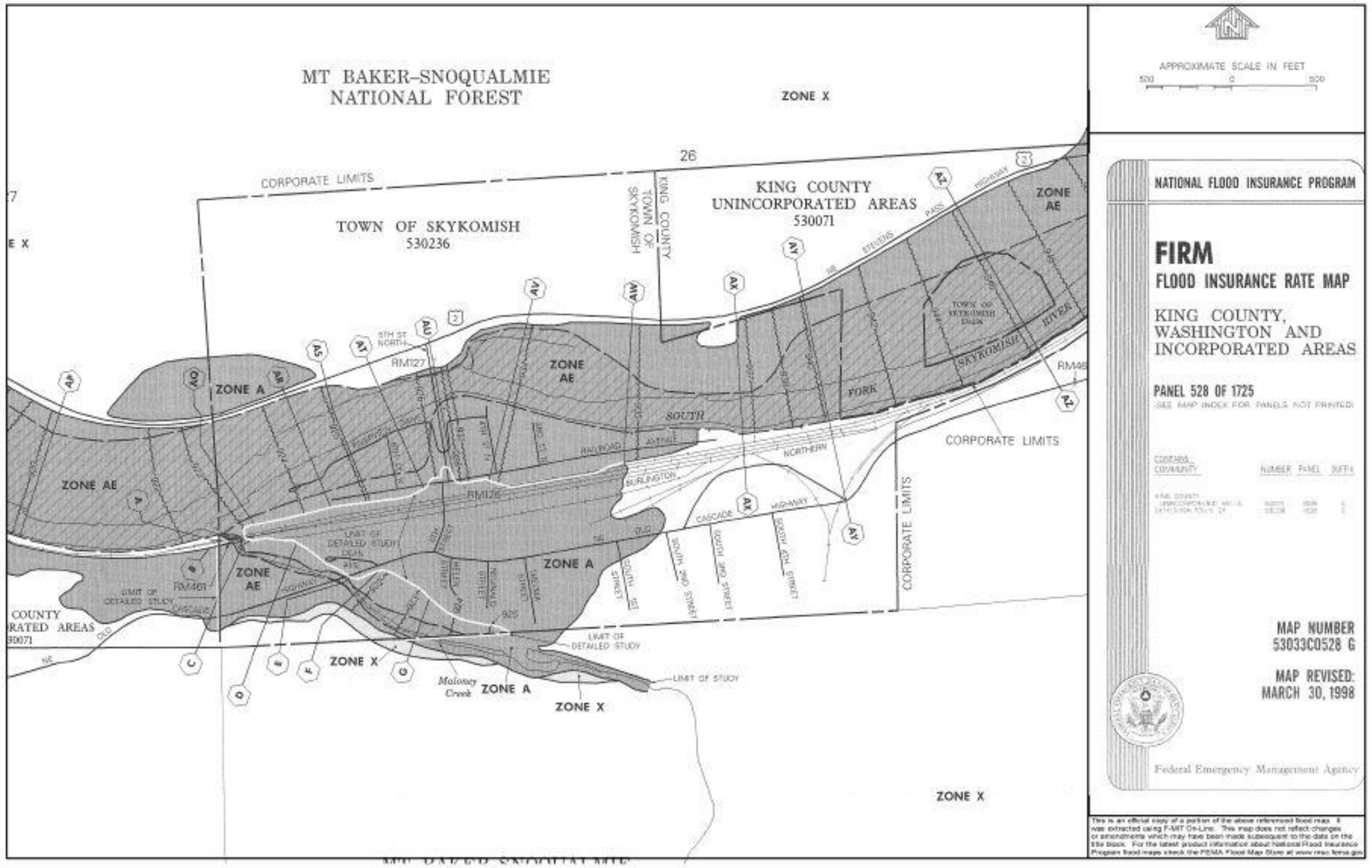
649-713 9. Sincerely,

Charles L.
Steele
Floodplain Management Specialist

Enclosures
cc: Mark Carey,
FEMA Dan
Sokol,
Ecology
Christina Yates


E 1509000
E 1510000
LEGEND
ONE-FOOT FLOODWAY
100-YEAR FLOOD PLAIN BOUNDARY
500-YEAR FLOOD PLAIN BOUNDARY
460.0
CROSS SECTION
180'
100-YEAR WATER SURFACE ELEVATION
R.M. 1.00
RIVER MILE 1.00
FEBRUARY 16, 1996


944.0
964.0
970.0
956.0
940
920
PK
SOUTH FORK SKYKOMISH RIVER
TENNIS COURT
RAILROAD AVE.
BURLINGTON NORTHERN RAILROAD
TOWN OF SKYKOMISH
MALONEY CREEK
OLD CASCADE HWY
LIMITS OF DETAILED STUDY
THIS AREA IMUNDATED WITH FLOOD WATER FROM


MT BAKER–SNOQUALMIE
NATIONAL FOREST
ZONE X
26
CORPORATE LIMITS
TOWN OF SKYKOMISH
530236
KING COUNTY
UNINCORPORATED AREAS
530071
KING COUNTY
TOWN OF SKYKOMISH
ZONE AE
ZONE A
ZONE X
SOUTH
FORK
SKYKOMISH RIVER
RM127
RM126
RM461
RM46
BURLINGTON
NORTHERN
CASCADE
HIGHWAY
CORPORATE LIMITS
LIMIT OF DETAILED STUDY
LIMIT OF STUDY
Maloney Creek
COUNTY
RATED AREAS
30071
APPROXIMATE SCALE IN FEET
500
0
500
NATIONAL FLOOD INSURANCE PROGRAM
FIRM
FLOOD INSURANCE RATE MAP
KING COUNTY,
WASHINGTON AND
INCORPORATED AREAS
PANEL 528 OF 1725
(SEE MAP INDEX FOR PANELS NOT PRINTED)
MAP NUMBER
53033C0528 G
MAP REVISED:
MARCH 30, 1998
Federal Emergency Management Agency
This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

Appendix E CHANNEL MIGRATION ZONE

Memo
To: Talia Tittelfitz, BHC Consultants, LLC and the Town of Skykomish
From: Patricia L Olson, PhD, LHG, Senior Hydrogeologist, HW—SEA
CC: Bobbak Talebi, SMP Planner, Ecology, NWRO
Date: December 17, 2012
Re: City of Skykomish, CMZ Comments Addendum

COMMENT

Of the two state shorelines streams flowing through the Town of Skykomish, only the SF Skykomish River has any potential to migrate. On river left (looking downstream), bank protection appears to have limited migration within the City boundaries. On river right there has been no evidence of recent migration, but geologic and soil conditions indicate there are no constraints to migration. The entire area is alluvium consisting of Arent soils composed of >75% sand with coarse gravel. Both materials are easily eroded. Depth to an erosion restriction, such as bedrock, is greater than 16 feet. For the most part, leaving the floodway undeveloped would protect property and structures from future migration or bank erosion.

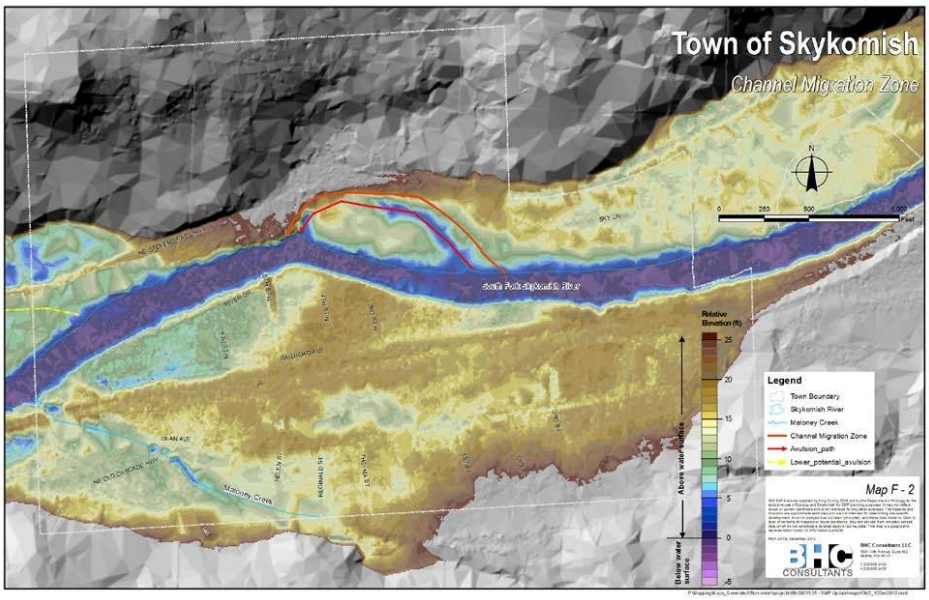
An exception to this occurs just upstream from the bridge. A side channel on river right is a channel migration zone (CMZ) which includes both avulsion (AHZ) and bank erosion hazard areas (EHA). The extent of the CMZ is depicted in Map F-1. For the most part, the floodway and CMZ are similar, however, the CMZ along the side channel extends landward of the floodway boundary in a few locations.-

Map F-1: The 1% (100-year) and 0.2% (500-yr) probability floodplains are shown as well as the floodway (yellow) on 2011 orthophoto in relation to the side channel on river right. A larger map follows the memo.

LiDAR elevation data were used to derive a relative water surface elevation model. The model provides information on evaluating connections to the main river. For example, the model shown in Map F-2 indicates that the water surface elevation for a higher potential avulsion hazard zone (red arrow line) is similar to the main channel water surface elevation. A low potential avulsion path, downstream of the bridge is shown by a dotted yellow line. Both avulsion paths are located downstream of the city center. Both the side channel reach and this downstream reach are undeveloped. Under high flow conditions the higher potential avulsion hazard is given a higher because:

- The upstream end (inlet) of the side channel is within the floodway.
- There appears to be headward erosion at the side channel outlet.

I recommend that development is not allowed within the CMZ (Map F-1), within the high hazard AHZ and associated erosion hazard area (Map F-2), or within the floodways.



Map F-2: The LiDAR data were used to evaluate possible bank erosion and channel migration. A relative water surface elevation model was derived from the LiDAR elevation data. The relative water surface elevation model sets all elevations relative to the water surface elevation. This information provides a better visual tool to evaluate connections to the main river. The red arrow line indicates the higher potential hazard channel avulsion path. The lower potential avulsion hazard is shown by a yellow dotted line. The data indicate that with the exception of the side channel and possibly the areas downstream of the town center, that the river location has not moved much in the recent past (approximately 50-100 years). The downstream area on river right is also located within the floodway so should not be developed. A larger map is attached to the memo.

Upstream of the Town of Skokomish, I only evaluated the reach between the town boundary and the next bridge crossing. Channel processes occurring upstream of the

bridge would not likely influence conditions in this reach unless bank failures or landslides add additional sediment to the SF Skykomish.

Disclaimer: This report has been prepared for the exclusive use of Ecology and the City of Skykomish for SMP planning purposes. It is not intended for any other purposes. The hazards and locations are approximate estimates and are not intended for determining site specific development. An error analysis has not been conducted and we make no claim to level of certainty for mapped hazards or future conditions. The report is based on remotely sensed data which does not constitute a detailed study. In addition conditions may change so this report is only a snap shot in time.


Town of Skykomish
Channel Migration Zone
South Fork Skykomish River
Maloney Creek
RAILROAD AVE
Legend
Town Boundary
Skykomish River
Maloney Creek
Channel Migration Zone
Skykomish_fp
ZONE, FLOODWAY
A
A, FW
XS00,
Skykomish_SF_07_2009
Active Channel
Channel
Unknown location
Map F - 1
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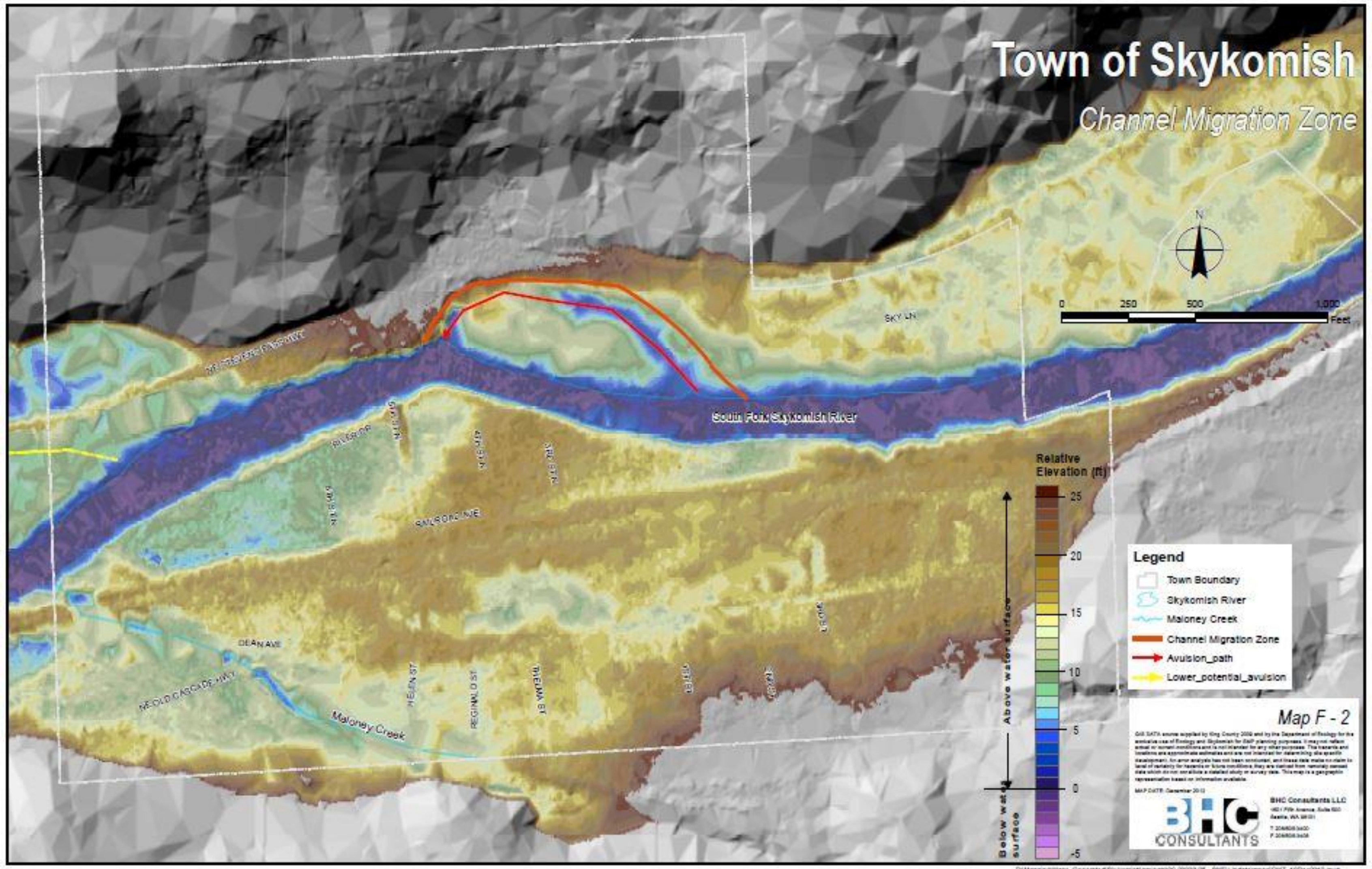
CONSULTANTS


Town of Skykomish
Channel Migration Zone
N
0
250
500
1,000
Feet
SKY LN
South Fork Skykomish River
Maloney Creek
DEAN AVE
Relative
Elevation (ft)
25
20
15
10
5
0
-5
Above water surface
Below water surface
Legend
Town Boundary
Skykomish River
Maloney Creek
Channel Migration Zone
Avulsion_path
Lower_potential_avulsion
Map F - 2
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Town of Skykomish
Channel Migration Zone
SE STEVENS PASS HWY
South Fork Skykomish River
RAILROAD AVE
DEAN AVE
NE OLD CASCADE HWY
Maloney Creek
Legend
Town Boundary
Skykomish River
Maloney Creek
Channel Migration Zone
Map F - 3
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