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CHAPTER 22.82
SHORELINE MASTER PROGRAM

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22.82.010 Shoreline Master Program Adopted.

The City of Monroe Shoreline Master Program, dated August 2008 and amended through required periodic review in **XXX 2019**, or as further amended, and attached to the ordinance codified in this chapter as Exhibit A and incorporated by this reference as if set forth in full, is hereby adopted as the Shoreline Master Program for the city of Monroe as required by Chapter 90.58 RCW.

22.82.020 Shoreline Environment Designations.

The city's shorelines shall be divided into seven environment designations as shown on the shoreline environment map (Figure 1, Monroe Shoreline Master Program), or as amended. These environment designations include:

- A. Aquatic (A), assigned to shoreline areas waterward of the ordinary high water mark.
- B. High Intensity (HI), assigned to shoreline areas within the City that currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.
- C. Natural (N), assigned to shoreline areas that are ecologically intact; of particular scientific and educational interest; unable to support new development or uses without significant ecological impacts or risk to human safety; important for conservation and recover of priority species; provides habitat for Federal or State ESA listed species; and/or has unique recreational or scenic value that would be degraded by human development.
- D. Shoreline Residential (SR), assigned to shoreline areas that are predominantly single-family or multifamily residential development or are planned and platted for residential development.
- E. Tye Stormwater Facility (TSF), assigned to shoreline areas if they are human-made stormwater detention facilities with existing or planned recreational and/or public access opportunities.

55 F. Urban Conservancy (UC), assigned to shoreline areas appropriate and planned for development that is
 56 compatible with maintaining or restoring the ecological functions of the area, that are not generally suitable
 57 for water-dependent uses.
 58

59 The purpose, designation criteria, and management policies for the individual shoreline environment
 60 designations are described in Chapter 2 of the Master Program.
 61

62 **22.82.030 Compliance Required.**

63 No developments or uses shall be undertaken on the shorelines of the city of Monroe except those that are
 64 consistent with the policies of this chapter and, after adoption or approval, as appropriate, the applicable
 65 guidelines, regulations, or the Monroe Shoreline Master Program, hereafter known as Master Program. No
 66 substantial development or use shall be undertaken on the shorelines of the city of Monroe without first
 67 obtaining a permit from the city. No exempt development activities or use as defined in MMC 22.82.060
 68 shall be undertaken without first acquiring a letter of exemption from the zoning administrator or his/her
 69 designee. When development is proposed consistent with the limited exceptions in WAC 173-27-044, such
 70 development shall not require review or permit approval under this title and the Master Program. Nothing in
 71 this chapter shall authorize the issuance of a permit contrary to the laws of Washington State.
 72

73 **22.82.040 Permitted Uses and Permitted Modifications.**

74
 75 A. The following matrix indicates the allowable uses and shoreline modifications and criteria conditioning
 76 use and modification allowances.
 77

- 78 B. The Master Program sets forth all standards for permitted uses.
 79 1. For ease of implementing shoreline management standards, this Chapter codifies this allowable use
 80 and shoreline modification matrix.
 81 2. Where there is a conflict between the chart and the written provisions in Chapters 3, 4, or 5 of the
 82 Master Program, the written provisions shall apply.
 83 3. For any development proposal, the applicant and City shall consider and implement the applicable
 84 shoreline modification (Chapter 4) and shoreline use (Chapter 5) standards of the Shoreline Master
 85 Program.
 86

87 C. Any use, development or substantial development not listed below shall require a Conditional Use
 88 Permit (CUP), unless otherwise classified by the Master Program.
 89

The matrix is coded according to the following legend.

P = May be permitted

C = May be permitted as a conditional use only

X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit

N/A = Not applicable

	Natural	High Intensity	Urban Conservancy	Shoreline Residential	Tye Stormwater Facility	Aquatic ¹
SHORELINE USE						
Agriculture	X	X	X	X	X	X
Aquaculture	X	X	X	X	X	X

The matrix is coded according to the following legend.

P = May be permitted

C = May be permitted as a conditional use only

X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit

N/A = Not applicable

	Natural	High Intensity	Urban Conservancy	Shoreline Residential	Type Stormwater Facility	Aquatic ¹
Boating facilities (see notes and SMP Chapter 5, Section F)	X	X	C ⁶	X	P ⁹	P
Commercial:						
Water-dependent	X	P	C	X	P	X
Water-related, water-enjoyment	X	P	C	X	P	X
Non-water-oriented	X	C	X	X	P	X
Flood hazard management	C ⁴	P	P	P	P	X
Forest practices ⁷	X	P	P	P	P	X
In-stream structures	X	C	C	C	C	C
Industrial:						
Water-dependent	X	P	X	X	X	X
Water-related, water-enjoyment	X	P	X	X	X	X
Non-water-oriented	X	C ⁵	X	X	P	X
Mining	X	X	X	X	X	X
Parking (accessory)	X	P	P	P	P	X
Parking (primary, including paid)	X	X	X	X	X	X
Recreation:						
Water-dependent	C	P	P	P	P	C
Water-related, water-enjoyment	C	P	P	P	P	C
Non-water-oriented	X	C	C ²	C	P	X
Single-family residential	X	X	X	P	X	X
Multifamily residential	X	P	X	P	X	X
Land division (See Section 6.B.7.)	X	P	X	P	P	X
Signs:						
On premises	X	P	X	X	P	X
Off premises	X	X	X	X	P	X
Public, highway	P	P	P	X	P	X
Solid waste disposal	X	X	X	X	X	X

Commented [AB1]: Updated to provide additional opportunity for 'hand launch / portage access' associated with Cadman Site Park Master Plan... see footnote 6 below

The chart is coded according to the following legend.

P = May be permitted

C = May be permitted as a conditional use only

X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit

N/A = Not applicable

	Natural	High Intensity	Urban Conservancy	Shoreline Residential	Tye Stormwater Facility	Aquatic ¹
Transportation:						
Water-dependent	X	P	P	P	P	C
Non-water-oriented	X	P ³	C ³	C ³	P	C
Roads, railroads	X	P ³	C ³	P ³	P	C
Utilities (primary)	X	P ³	C ³	P ³	P	C
SHORELINE MODIFICATIONS						
Shoreline stabilization:						
Beach restoration/enhancement	C ⁴	P	P ⁴	P	P	See adjacent upland environment
Bioengineering	C ⁴	P	P ⁴	P	P	
Revetments	X	C ⁴	C ⁴	C ⁴	C	
Bulkheads	X	C ⁴	C ⁴	C ⁴	C	
Breakwaters/jetties/rock weirs/groins	X	X	X	X	X	
Dikes, levees	X	X	X	X	P	
Dredging	X	X	X	X	P ¹⁰	
Hazardous waste cleanup ⁵	P	P	P	P	P	
Fill	X	X	X	X	P	
Piers, docks	X	X	X	X	X ¹¹	

D. Notes and specific criteria for shoreline use and modification matrix:

1. The use or shoreline modification may be allowed in the Aquatic Environment if, and only if, permitted in the adjacent upland environment.
2. Public access, as approved by the City, is a condition of non-water-dependent development on properties with shoreline waterbody frontage.
3. The use may be allowed provided there is no other feasible route or location.
4. The shoreline modification may be allowed for environmental restoration or if the City determines that there will be a net increase in desired shoreline ecological functions.
5. Within the 'Cadman Sky River' industrial property in the High Intensity environment of the Skykomish River, continued aggregate washing, crushing and screening, and continued concrete batching facilities or concrete ready-mix facilities are permitted, together with accessory uses such as truck scales, office trailers, maintenance shops, equipment sheds, aggregate depots, and facilities for fueling equipment, provided that these facilities and activities are not expanded. See Section 5.E. Mining for conditions.
6. The existing boat launch at the Washington State Department of Fish and Wildlife Lewis Street Access Site may be modified and improved consistent with state and federal regulatory agency permits that must be obtained prior to Conditional Use Permit approval. New hand launch facilities may be provided within the Cadman Site park area to provide access for kayaks, canoes, and similar non-motorized and hand launched watercraft along the Cadman Site pond and to adjacent Skykomish River shoreline. Improvements for any hand launch facilities must be consistent with state and federal

Commented [AB2]: City to verify what is still ongoing / allowed at the Cadman Sky River location

- 111 regulatory agency permits which must be obtained prior to Conditional Use Permit approval. No other
112 new boating facilities are allowed in the Urban Conservancy environment.
- 113 7. All forest practices subject to the Washington State Forest Practices Act (Title 222 WAC; Chapters
114 76.09 and 76.13 RCW) must conform to the provisions of that Act, this Program, and any other
115 applicable City requirements. See Section 3.L Vegetation Conservation of this Master Program and
116 Critical Areas Regulations (MMC Chapter 20.05) for other conditions.
- 117 8. Any cleanup activities must be coordinated with approval and oversight by the Department of
118 Ecology, or conducted under Ecology's Voluntary Cleanup Program.
- 119 9. New boating facilities may be constructed to provide improved access for non-motorized and small
120 electric boats (≤ 1.5 hp). All facilities, including boat launches or piers and docks, will be designed in
121 consultation with Washington Department of Fish and Wildlife. No facilities will be constructed to
122 provide long-term moorage.
- 123 10. Dredging may only be conducted as necessary to maintain the stormwater detention function of the
124 pond. Dredging must be conducted in a way that minimizes impacts to ecological functions and any
125 impacts must be mitigated.
- 126 11. The prohibition on piers and docks does not apply to public recreational facilities, which are
127 addressed under Boating Facilities.

128
129 **22.82.040 General Provisions Applicable to All Development Proposals**

- 130
131 A. The following general provisions have been codified from Chapter 3 of the Shoreline Master Program.
132 Including these provisions in this Chapter is intended to improve understanding and effective
133 implementation of standards applicable to common development activities. As noted in each section below,
134 not all standards from Chapter 3 of the Shoreline Master Program have been codified; as such, reference to
135 the Shoreline Master Program shall be necessary.
- 136
137 B. General standards.
- 138 1. All proposed uses and developments, including those that do not require a shoreline permit,
139 occurring within shoreline jurisdiction, must conform to Chapter 90.58 RCW Shoreline Management Act
140 and the Shoreline Master Program.
- 141 2. Shoreline uses and modifications listed as "prohibited" shall not be eligible for consideration as a
142 shoreline Variance or shoreline Conditional Use Permit.
- 143 3. The "policies" listed in the Shoreline Master Program will provide broad guidance and direction and
144 will be used by the City in applying the "regulations."
- 145 4. Where provisions of Chapter 22.82 and the full Shoreline Master Program conflict, the provisions of
146 the full Master Program shall apply.
- 147 5. Where provisions of the Shoreline Master Program conflict with each other, the provisions most
148 directly implementing the objectives of the Shoreline Management Act, as determined by the City, shall
149 apply unless specifically stated otherwise.
- 150 5. All uses and development shall result in no net loss of ecological functions to the greatest extent
151 feasible.
- 152 6. All newly created lots with shoreline frontage shall provide a minimum shoreline frontage width of 50
153 feet.
- 154 C. Archeological and Historic Resources
- 155 1. Archeological sites located both in and outside the shoreline jurisdiction are subject to RCW 27.44
156 (Indian Graves and Records) and RCW 27.53 (Archeological Sites and Resources) and shall comply
157 with WAC 25-48 as well as the provisions of the Shoreline Master Program.
- 158 2. The City shall notify the Tulalip Tribes upon receipt of application for work in shoreline areas. The
159 property owner shall allow the Tulalip Tribes to examine the site at a mutually agreed upon time.

- 160 3. All shoreline permits shall contain provisions which require developers to immediately stop work and
 161 notify the City, affected tribes and the Washington State Office of Archaeology if any phenomena of
 162 possible archaeological interest are uncovered during excavations. In such cases, the developer shall
 163 be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that
 164 all possible valuable archaeological data are properly salvaged.
- 165 4. Permits issued in areas known to contain archaeological artifacts and data shall include a
 166 requirement that the developer provide for a site inspection and evaluation by a professional
 167 archaeologist in coordination with affected Native American tribes. The permit shall require approval by
 168 the City before work can begin on a project following inspection. Significant archaeological data or
 169 artifacts shall be recovered before work begins or resumes on a project.
- 170 5. Significant archaeological and historic resources shall be permanently preserved for scientific study,
 171 education and public observation. Significant archaeological and historic resources shall be handled in
 172 conformance with the federal Native American Graves Protection and Repatriation Act. When the City
 173 determines that a site has significant archaeological, natural, scientific or historical value, a Substantial
 174 Development Permit shall not be issued for activities which would pose a threat to the site. The City
 175 may require that development be postponed in such areas to allow investigation of public acquisition
 176 potential and/or retrieval and preservation of significant artifacts.
- 177 6. See Chapter 3, Section C for additional standards regarding emergency actions, standards for
 178 archaeological excavations, park and open spacing planning considerations, and public interpretation
 179 consideration.

180 D. Critical Areas

- 181 1. The City of Monroe Critical Areas Regulations, as adopted by Ordinance xxx [PENDING] and
 182 codified in MMC 22.80, are herein incorporated into this Program except for the following:
- 183 a. 22.80.050(B), Exemptions.
 184 b. 22.80.050(C), Exceptions, including public agency and utility exception (subsection C.1) and
 185 reasonable use exception (subsection C.2), and innovative development design (subsection C.3).
 186 c. 22.80.060, Nonconforming uses.
- 187 2. In the event of a contradiction between this SMP and the Critical Areas Regulations (MMC 22.80),
 188 the provision more protective of the environment shall apply, as determined by the City.
- 189 3. MMC 22.80.090 (Stream Development Standards) requires a minimum buffer of two hundred (200)
 190 feet from Type 1 streams. The Skykomish River and Woods Creek are both classified as Type 1
 191 streams. MMC 22.80 also include provisions for increasing the stream buffer as necessary to protect
 192 streams when either the stream is particularly sensitive to disturbances or the development poses
 193 unusual impacts.
- 194 4. In accordance with statute, wetlands associated with waters of the state fall within Shoreline
 195 Management Act jurisdiction. Buffer areas of wetlands and other critical areas that extend outside of the
 196 boundary of shoreline jurisdiction are regulated under the City of Monroe Critical Areas Ordinance
 197 (MMC 20.05). Activities occurring in these buffer areas would not require Shoreline Master Program
 198 review, and exceptions listed above shall not apply.
- 199 5. Allowances for Tye Stormwater Facility fringe wetlands. Wetlands that have developed around the
 200 edges of the Tye Stormwater Facility must be delineated and protected as outlined in MMC 22.80.
 201 However, the buffer from any Tye Stormwater Facility-fringe wetland shall only extend to the waterward
 202 edge of paved roads or gravel parking areas greater than 50 feet in width. Water-dependent uses, such
 203 as docks, may be permitted in wetlands that have developed adjacent to the Tye Stormwater Facility,
 204 provided that any impacts are mitigated.
- 205 6. In addition to the Critical Areas Regulations, the City has adopted flood hazard area regulations,
 206 Monroe Municipal Code 14.01, which are administered by the City engineer. In accordance with WAC
 207 173-26-221(3)(c), new structural flood hazard reduction measures should be allowed "only when it can
 208 be demonstrated by a scientific and engineering analysis that they are necessary to protect existing
 209 development, that nonstructural measures are not feasible, that impacts to ecological function and
 210 priority species and habitat can be successfully mitigated so as to assure no net loss and that
 211 appropriate vegetation conservation actions are undertaken."

Commented [PD(3)]: Update with new CAO reference and local ordinance number and date.

Commented [AB4R3]: addressed

Commented [PD(5)]: Why remove this section? I don't see new equivalent language.

Commented [AB6R5]: Added back in

Commented [AB7]: Needs to be updated to new UDR organization

212 7. All integrating critical areas regulations from Chapter 3, Section D of the Shoreline Master Program
213 are codified in this section.
214

215 E. Environmental Impacts and Mitigation

216 1. All project proposals within shoreline jurisdiction, including those for which a shoreline permit is not
217 required, shall comply with RCW43.21c, the Washington State Environmental Policy Act.

218 2. Projects that cause significant ecological impacts, as defined in Shoreline Master Program Chapter
219 8 (Definitions), are not allowed unless mitigated, according to the sequence in Item 4 below, to avoid
220 reduction or damage to ecosystem-wide processes and ecological functions.

221 3. Projects that cause significant adverse impacts, other than significant ecological impacts, shall be
222 mitigated according to the sequence in Item 4 below.

223 4. When applying mitigation to avoid or minimize significant adverse effects and significant ecological
224 impacts, the City will apply the following sequence of steps in order of priority, with (a) being top priority:

- 225 a. Avoiding the impact altogether by not taking a certain action or parts of an action;
- 226 b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by
227 using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
- 228 c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- 229 d. Reducing or eliminating the impact over time by preservation and maintenance operations;
- 230 e. Compensating for the impact by replacing, enhancing, or providing substitute resources or
231 environments; and
- 232 f. Monitoring the impact and the compensation projects and taking appropriate corrective
233 measures.

234 5. The City will set mitigation requirements or permit conditions based on impacts identified. In
235 determining appropriate mitigation measures, avoidance of impacts by means such as relocating or
236 redesigning the proposed development will be applied first. Lower priority measures will be applied only
237 after higher priority measures are demonstrated to be not feasible or not applicable. When critical areas
238 are impacted, mitigation will be designed consistent with the Critical Areas Regulations as applicable in
239 shoreline jurisdiction.

240 6. All shoreline development shall be located and constructed to avoid significant adverse impacts to
241 human health and safety.

242 7. Application of the mitigation sequence shall achieve no net loss of ecological functions for each new
243 development and will not result in required mitigation in excess of that necessary to assure that
244 development will result in no net loss of shoreline ecological functions and not have a significant
245 adverse impact on other shoreline functions fostered by the policy of the act.

246 8. When compensatory measures are appropriate pursuant to the mitigation priority sequence above,
247 preferential consideration shall be given to measures that replace the impacted functions directly and in
248 the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed
249 that addresses limiting factors or identified critical needs for shoreline resource conservation based on
250 watershed or comprehensive resource management plans applicable to the area of impact may be
251 authorized. Authorization of compensatory mitigation measures may require appropriate safeguards,
252 terms or conditions as necessary to ensure no net loss of ecological functions.

253 9. All integrating environmental impact regulations from Chapter 3, Section E of the Shoreline Master
254 Program are codified in this section.
255

256 F. Riparian Corridor Management and Flood Hazard Reduction

257 1. The applicant shall provide the following information as part of a shoreline permit application.

- 258 a. Location of the 100-year floodplain, channel migration zone (CMZ) or, if there is no CMZ, the
259 bank full width boundary, and ordinary high water mark.
- 260 b. Existing shoreline stabilization and flood-protection works on the site.
- 261 c. Physical, geological, and soil characteristics of the area.

Commented [AB8]: Anita / Ben – not sure how you want to approach SMP definitions? If you are planning to integrate into overall UDR definitions chapter, then you could reference to that Chapter... but there may be some conflicts between 'SMP' definitions (as required by State) and what you have for the rest of your development code. In which case, maintaining reference to full Shoreline Master Program could be easiest.

- 262 d. Predicted impacts upon area shore and ecological processes, adjacent properties, and shoreline
263 and water uses.
- 264 e. Analysis of alternative construction methods, development options, or flood protection measures,
265 both structural and nonstructural.
- 266 f. Description of existing shoreline vegetation and measures to protect existing vegetation and to
267 re-establish vegetation.
- 268 2. New development must be consistent with items (a) through (e) below in addition to the provisions of
269 this Program. In cases of inconsistency, the provisions most protective of shoreline ecological functions
270 and processes shall apply:
- 271 a. The City's comprehensive flood hazard reduction plan.
- 272 b. The applicable provisions of the City floodplain regulations adopted under Chapter 86.16 RCW.
- 273 c. A State-approved comprehensive flood control management plan, when available, and in
274 accordance with Chapter 86.16 RCW and the National Flood Insurance Program.
- 275 d. The City stormwater management program.
- 276 e. Conditions of Hydraulic Project Approval, issued by Washington Department of Fish and Wildlife,
277 may be incorporated into permits issued for flood protection.
- 278 3. New development, including significant vegetation removal and shoreline stabilization, is not allowed
279 within the CMZ except for:
- 280 a. Protection and restoration actions that increase the ecosystem-wide processes or ecological
281 functions.
- 282 b. Bridges, utility lines, and other public utility and transportation structures where no other feasible
283 alternative exists. Where such structures are allowed, mitigation shall be required that protects or
284 restores impacted functions and processes in the affected portion of the watershed.
- 285 c. Repair and maintenance of an existing legal structure, provided that such actions do not create
286 significant ecological impacts.
- 287 d. Development on a previously altered site where it is demonstrated that the development restores
288 ecological processes and functions of the applicable portion of the watershed to a more natural
289 condition.
- 290 e. Modifications or additions to an existing legal development, provided that channel migration is
291 not further limited and that the new development includes appropriate ecological restoration. The
292 City will set requirements based on the type of proposed use and the biophysical condition of the
293 site. In this case, the new development must not adversely affect hydrological conditions and must
294 include appropriate restoration measures as determined by the City.
- 295 f. Measures to reduce shoreline erosion, provided that it is demonstrated that the erosion rate
296 exceeds that which would normally occur in a natural condition, that the measure does not interfere
297 with fluvial hydrological and geomorphologic processes normally acting in natural conditions, and
298 that the measure increases habitat for priority species associated with the river or stream. It is the
299 intent of this provision to allow measures that protect property at the same time as restoring
300 ecosystem-wide processes and functions where scientific and technical information demonstrate
301 that this may be accomplished.
- 302 4. The City shall determine whether or not the previous exceptions apply to the development proposal
303 in question. The City may require the project proponent to submit documentation or analysis based on
304 scientific and technical information demonstrating that the development proposal meets the exception
305 criteria (a) through (f) above. Further, such exceptions will be allowed only where it can be shown that
306 these activities, along with mitigation measures associated with the development, will not increase flood
307 elevations, decrease storage capacity, or restrict the natural erosion and accretion processes
308 associated with channel migration.
- 309 5. Significant ecological impacts of all development in the CMZ and structural hazard reduction
310 measures shall be mitigated according to the priorities listed under "mitigation," 22.82.040.E.
- 311 6. Otherwise allowed development in the CMZ and flood hazard reduction measures shall employ the
312 type of construction or measure that causes the least significant ecological impacts. When authorizing
313 development within the CMZ, the City will require that the construction method with the least negative
314 significant ecological impacts be used.

- 315 7. Existing hydrological connections into and between water bodies, such as streams, tributaries,
316 wetlands, and dry channels, shall be maintained. Where feasible, obstructed channels shall be re-
317 established as a condition of non-water-dependent uses, development in the CMZ, and structural flood
318 hazard reduction measures.
- 319 8. Re-establishment of native vegetation waterward of a new structure is required where feasible. The
320 City may require re-establishment of vegetation landward of the structure if it determines such
321 vegetation is necessary to protect and restore ecological functions.
- 322 9. Designs for flood hazard reduction measures and shoreline stabilization measures in river corridors
323 must be prepared by qualified professional engineers (or geologists or hydrologists) who have expertise
324 in local riverine processes.
- 325 10. Structural flood hazard reduction projects that are continuous in nature, such as dikes or levees,
326 shall provide for public access unless the City determines that such access is not feasible or desirable
327 according to the criteria in the Public Access section.
- 328 11. Along with the above criteria and the allowed use and modifications table in 22.82.040, refer to
329 Chapter 3, Section F (standards 11 – 17) of the Shoreline Master Program for limits on specific uses
330 within the 100-year floodplain.

- 331
- 332 G. Parking (where allowed as accessory use)
- 333 1. Parking facilities shall be designed and landscaped to minimize adverse impacts upon adjacent
334 shoreline and abutting properties. Landscaping shall consist of native vegetation and plant materials
335 approved by the City and be planted before completion of the parking area in such a manner that
336 plantings provide effective screening within three years of project completion.
- 337 2. Parking facilities serving individual buildings located on parcels that are contiguous with shoreline
338 waterbodies shall be located landward from the principal building being served, EXCEPT when the
339 parking facility is within or beneath the structure and adequately screened, or in cases when an
340 alternate location would have less environmental impact on the shoreline.
- 341 3. Parking facilities for shoreline activities shall provide safe and convenient pedestrian circulation
342 within the parking area and to the shorelines.
- 343 6. Parking facilities shall provide adequate facilities to prevent surface water runoff from contaminating
344 water bodies, using best available technologies and include a maintenance program that will assure
345 proper functioning of such facilities over time.

- 346
- 347 H. Public Access
- 348 1. Development, uses and activities on public lands shall be designed and operated to avoid blocking,
349 reducing or adversely interfering with the public's physical access to the water and shorelines,
350 unless such access would cause ecological impacts.
- 351 2. Public access provided by shoreline street ends, public utilities, rights-of-way, and other public lands
352 shall not be diminished. RCW 35.79.035 and RCW 36.87.130 restrict the City from vacating right-of-
353 way which abuts on a body of fresh water unless the purpose of the vacation is to enable the public
354 authority to acquire the vacated property for boat launching sites, or for park, viewpoint, recreational,
355 and educational or other public purposes.
- 356 3. Shoreline development, uses and activities shall be designed and operated to avoid blocking,
357 reducing, or adversely interfering with the public's visual access to the water and shorelines, except
358 that vegetation conservation and shoreline restoration activities may intrude into view corridors
359 where necessary to protect or restore ecological functions. The City may require the development
360 proposal to be relocated or reconfigured to reduce view blockage.
- 361 4. Along with the above criteria, refer to Chapter 3, Section H (standards 4 - 7) of the Shoreline Master
362 Program for additional public access requirements.

363

364 I. Vegetation Conservation

- 365 1. All development, including clearing and grading, shall minimize significant vegetation removal to the
366 extent feasible. In order to implement this regulation, applicants proposing development that
367 includes significant vegetation removal, clearing or grading, must provide, as a part of a shoreline
368 permit or a letter of exemption application, a site plan, drawn to scale, indicating extent of the
369 proposed clearing and/or grading. The City may require that the proposed development or extent of
370 clearing and grading be modified to mitigate the impacts to ecological functions.
- 371 2. Restoration of any shoreline that has been disturbed or degraded shall use native plant materials
372 with a diversity and type similar to that which naturally occurs on-site unless the City finds that native
373 plant materials are inappropriate or not hardy in the particular situation.
- 374 3. The Shoreline Master Program includes additional detailed standards for ensuring vegetation
375 conservation, including Shoreline Environment Designation specific criteria. For all development
376 that includes clearing of existing native vegetation, the applicant and City shall ensure consistency
377 with Chapter 3, Section L of the Shoreline Master Program.

378 J. Water Quality

- 379 1. All shoreline development, both during and after construction, shall avoid or minimize ecological
380 impacts, including any increase in surface runoff, through control, treatment, and release of surface
381 water runoff so that the receiving water quality and shore properties and features are not adversely
382 affected.
- 383 2. All development shall conform to local, state, and federal water quality regulations, provided the
384 regulations do not conflict with this Program. Where there is a conflict, provisions most protective of
385 the natural ecology shall apply. The City of Monroe adopts the latest version of the Department of
386 Ecology Stormwater Management Manual for Western Washington to regulate stormwater discharge
387 and management.
- 388 3. Water Quality regulations apply to the Tye Stormwater Facility environment and its associated
389 Aquatic environment only as they are consistent with maintaining the primary purpose of the human-
390 made Tye Stormwater Facility, collecting and treating stormwater runoff from existing and future
391 developments within its catchment area. Any loss of ecological functions must be mitigated.
- 392 4. All water quality regulations from Chapter 3, Section M of the Shoreline Master Program are codified
393 in this section.

394 **22.82.050 Nonconforming Uses and Developments.**

- 396 A. "Nonconforming use or development" means a shoreline use or development which was lawfully
397 constructed or established prior to the effective date of the Shoreline Management Act or this Master
398 Program, or amendments thereto, but which does not conform to present regulations or standards of this
399 Master Program.
- 400
- 401 B. Structures that were legally established and are used for a conforming use, but which are
402 nonconforming with regard to setbacks, buffers or yards; area; bulk; height or density, may be maintained
403 and repaired and may be enlarged or expanded provided that said enlargement does not increase the
404 extent of nonconformity by further encroaching upon or extending into areas where construction or use
405 would not be allowed for new development or uses.
- 406
- 407 C. Uses and developments that were legally established and are nonconforming with regard to the use
408 regulations of this Master Program may continue as legal nonconforming uses. Such uses shall not be
409 enlarged or expanded, except that nonconforming single-family residences that are located landward of the
410 ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and
411 dimensional standards by the addition of space to the main structure or by the addition of normal
412 appurtenances as defined in WAC 173-27-240(2)(g) upon approval of a Conditional Use Permit.

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- D. A use which is listed as a conditional use, but which existed prior to adoption of the Monroe Shoreline 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 this Master Program to the site and for which a Conditional Use Permit has not been obtained, shall be considered a nonconforming use.
 - E. 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.
 - F. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a Conditional Use Permit. A Conditional Use Permit may be approved only upon a finding that:
 - 1. No reasonable alternative conforming use is practical; and
 - 2. The proposed use will be at least as consistent with the policies and provisions of the Act and this Master Program and as compatible with the uses in the area as the preexisting use. In addition, such conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of this Master Program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.
 - G. A nonconforming structure which is moved any distance must be brought into conformance with this Master Program and the Act.
 - H. If a nonconforming development is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance.
 - I. If a nonconforming use is discontinued for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to subsection (6) of this section shall be considered a conforming use for purposes of this section.
 - J. An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established in accordance with local and state subdivision requirements prior to the effective date of the Act or this Master Program, but which does not conform to the present lot size standards may be developed if permitted by other land use regulations of the City of Monroe and so long as such development conforms to all other requirements of this Master Program and the Act.
 - K. These standards are consistent with the nonconforming standards contained in Chapter 6(D) of the Master Program.

22.82.060 Exemptions.

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- A. Application and Interpretation of Exemptions.
 - 1. The city shall narrowly construe exemptions. Only those developments that meet the precise terms of one or more of the listed exemptions, in the definition for substantial development, found in Chapter 8 of the Master Program, or those exemptions or exceptions listed in WAC 173-27-040, and/or Chapter 90.58 RCW 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 Shoreline Management Act or the Master Program, or from any other regulatory or municipal requirements. All uses and developments must be consistent with the policies and provisions of the Master Program and the Shoreline Management Act. A development or use either listed as a conditional use in the Master Program or an unlisted use, must obtain a conditional use permit even

466 though the development or use does not require a substantial development permit. When a proposed
467 development or use does not comply with the bulk, dimensional and performance standards of the
468 Master Program, such development or use shall require a variance.
469 3. The burden of proof that a development or use is exempt from the shoreline permit process is on the
470 applicant; as such, a written request for exemption shall be submitted to the community development
471 department, with the proposed development application, in conformance with this section.
472 4. If any part of a proposed development is not eligible for an exemption, then a substantial
473 development permit is required for the entire proposed development project.
474 5. The city of Monroe may attach conditions to the approval of exempted developments and/or uses,
475 as necessary, to assure consistency of the project with the Shoreline Management Act and the Master
476 Program.

477 **22.82.070 Permit – Fees.**

479 All persons desiring a shoreline permit or any other approval required by the Master Program shall make
480 application by paying a fee as set out in the city's fees resolution and filing an application with the
481 community development department.

482 **22.82.080 Application – Form.**

484 Applications for permits and approvals shall be made on forms prescribed by the community development
485 department, and shall contain the name and address of the applicant, a description of the development, the
486 location of the development, and any other information deemed necessary.

487 **22.82.090 Review Process – Generally.**

489 Requests for a shoreline substantial development permit, variance, or a conditional use permit require
490 review by the city of Monroe hearing examiner. The hearing examiner's decision on substantial
491 development permits is final. The hearing examiner shall have the authority to hear and make findings,
492 conclusions, and recommendations on shoreline conditional use permits and variances. The city council
493 shall have the authority to grant shoreline conditional use permits and variances. The city shall submit all
494 issued conditional use permits and variances to the Department of Ecology for its approval or disapproval.
495 All applicants shall prove that a proposed development or use is consistent with the Master Program as well
496 as the requirements of this chapter.

497 **22.82.100 Notice and Hearing Requirements.**

499 A. Upon receipt of an application for a shoreline substantial development permit, shoreline variance or
500 shoreline conditional use permit, the city shall cause notice of the application to be published, at least once
501 a week for two consecutive weeks, in a newspaper of general circulation within the city. The second notice
502 shall be published not less than thirty days prior to action by the community development department. The
503 city shall also cause notice of the application to be mailed to each property owner of record within five
504 hundred feet of the proposed development. The date of the mailing shall not be less than seven days in
505 advance of the department action.
506 B. Upon completion of review of the proposed shoreline permit by the community development department,
507 staff shall schedule a public hearing at the next available hearing date, in front of the hearing examiner, to
508 consider the shoreline substantial development permit, shoreline variance or shoreline conditional use
509 permit application. The hearing examiner shall issue a written decision or recommendation no later than ten
510 working days following the public hearing.

511 **22.82.110 Review Process and Criteria for Substantial Development Permits.**

513 A. The hearing examiner shall hold a public hearing on the proposed substantial development permit and
514 approve, approve with conditions, or deny the application.
515 B. A substantial development permit shall be granted only when the development proposed is consistent
516 with:

Commented [AB9]: Ben / Anita – SSDP review could be a Type 1 / Planning Director decision (not requiring Hearing Examiner review and decision). This would streamline permit process for things that are consistent with SMP, including City projects around Tye, etc

Commented [AB10]: See comment above. For SSDPs, most other jurisdictions typically don't require a Hearing Examiner review/decision

- 517 1. The policies and procedures of the Shoreline Management Act;
518 2. The provisions of this regulation; and
519 3. The approved Master Program.
- 520 C. The city of Monroe may attach conditions to the approval of permits as necessary to assure consistency
521 of the project with the Shoreline Management Act and the Master Program.
- 522 D. The hearing examiner's decision shall become final and the permit shall be issued upon the terms and
523 conditions prescribed by the hearing examiner, if no appeal is filed. The hearing examiner's decision shall
524 be filed with the Department of Ecology. In the event the hearing examiner determines the use or
525 development is inconsistent with the above criteria, the application shall be denied.
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527 **22.82.120 Review Process and Criteria for Conditional Uses and Variances.**

- 528 The city shall adopt provisions for conditional use and variance permits, consistent with Chapter 6 of the
529 Master Program, to ensure that the strict interpretation of the Master Program will not create unnecessary
530 hardships or thwart the policies of this title or the Shoreline Management Act.
- 531 A. Shoreline Conditional Use Permits. The hearing examiner shall have the authority to hear and make
532 findings, conclusions, and recommendations on shoreline conditional use permits. The city council shall
533 have the authority to grant, in appropriate cases and subject to appropriate conditions and safeguards,
534 shoreline conditional use permits. The city shall submit all issued conditional use permits to the Department
535 of Ecology for its approval or disapproval. The criteria for granting conditional use permits are the following:
536
- 537 1. Uses classified in the Master Program as conditional uses may be authorized, provided the applicant
538 can demonstrate all of the following:
 - 539 a. That the proposed use will be consistent with the policies of the Shoreline Management Act and
540 the policies of the Master Program.
 - 541 b. That the proposed use will not interfere with the normal public use of public shorelines.
 - 542 c. That the proposed use of this site and design of the project will be compatible with other
543 permitted uses within the area.
 - 544 d. That the proposed use will cause no unreasonably adverse effects to the shoreline environment
545 designation in which it is to be located.
 - 546 e. That the public interest suffers no substantial detrimental effect.
 - 547 2. Other uses which are not classified or set forth in the Master Program may be authorized as
548 conditional uses; provided, that the applicant can demonstrate, in addition to the criteria set forth in
549 subsections (A)(1) and (3) of this section, that extraordinary circumstances preclude reasonable use of
550 the property in a manner consistent with the use regulations of the Master Program.
 - 551 3. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of
552 additional requests or like actions in the area.
 - 553 4. Uses specifically prohibited by the Master Program may not be authorized pursuant to either
554 subsection (A)(1) or (3) of this section.
- 555 B. Shoreline Variances. The hearing examiner shall have the authority to hear and make findings,
556 conclusions, and recommendations on shoreline variances. The city council shall have authority to grant
557 variances from the substantive requirements of this Shoreline Master Program. The purpose of a variance is
558 strictly limited to granting relief to specific bulk, dimensional, or performance standards set forth in this
559 Master Program, where there are extraordinary or unique circumstances relating to the properties, such that
560 the strict implementation of the Master Program would impose unnecessary hardships on the applicant or
561 thwart the policies set forth in the Shoreline Management Act. The city shall submit all issued variances to
562 the Department of Ecology for final approval or disapproval. The criteria for granting variances shall be
563 consistent with the Shoreline Management Act and include the following:
 - 564 1. Variances should be granted in a circumstance where denial of the permit will not thwart the policy
565 enumerated in the Shoreline Management Act or the Master Program. In all instances, extraordinary
566 circumstances shall be shown, and the public interest shall suffer no substantial detrimental effect.
 - 567 2. Variances for development that will be located landward of the ordinary high-water mark may be
568 authorized, provided the applicant can demonstrate all of the following:
 - 569 a. That the strict application of the bulk, dimensional, or performance standards as set forth in the
Master Program precludes or significantly interferes with a reasonable permitted use of the property.

- 570 b. That the hardship is specifically related to the property and is the result of unique conditions,
571 such as irregular lot shape, size, or natural features, in the application of the Master Program and
572 not, for example, from deed restrictions or the applicant's own actions.
- 573 c. That the design of the project will be compatible with other permitted activities in the area and
574 not cause adverse effects to adjacent properties or the shoreline environment designation.
- 575 d. That the variance does not constitute a grant of special privilege not enjoyed by other properties
576 in the area, and will be the minimum necessary to afford relief.
- 577 e. That the public interest will suffer no substantial detrimental effect.
- 578 3. Variances for development that will be located waterward of the ordinary high-water mark may be
579 authorized, provided the applicant can demonstrate all of the criteria specified above; and provided, that
580 the applicant can demonstrate that the public rights of navigation and use of the shorelines will not be
581 adversely affected by the granting of the variance.
- 582 4. In granting of all variances, consideration shall be given to the cumulative impact of additional
583 requests or like actions in the area.
- 584 5. Variances from the use regulations of this Master Program are prohibited.

585 **22.82.130 Appeals.**

587 Appeals of shoreline permit decisions and decisions on shoreline permit revisions, letters of exemption and
588 other approvals required by the Master Program shall be heard in accordance with MMC Chapter 21.84 and
589 RCW 90.58.180.

590 **22.82.140 Commencement of Construction – Time Lapse.**

592 No one who is issued a permit hereunder shall be authorized to commence construction until twenty-one
593 days have elapsed from the date that the permit is filed with the Washington State Department of Ecology
594 for substantial development permits. For shoreline conditional use and variance permits, construction shall
595 not commence until twenty-one days after the Department of Ecology has made its decision regarding the
596 permit or until all review proceedings are terminated, if such proceedings were initiated within said twenty-
597 one-day period. All permits shall be submitted to the Department of Ecology for filing consistent with WAC
598 173-27-130.

599 **22.82.150 Time Requirements of Permit.**

- 601 A. The time requirements of this section shall apply to all substantial development, variance or conditional
602 use permits authorized by this chapter.
- 603 B. Construction activities shall commence, or, where no construction activities are involved, the use or
604 activity shall commence, within two years of the effective date of a shoreline permit. The hearing examiner
605 may authorize a single extension for a period not to exceed one year, based on reasonable factors, if a
606 request for extension has been filed before the expiration date and notice of the proposed extension is
607 given to parties of record.
- 608 C. Authorization to conduct construction activities, pursuant to the approved shoreline permit, shall
609 terminate five years after the effective date of a shoreline permit. The hearing examiner may authorize a
610 single extension for a period not to exceed one year, based on reasonable factors, if a request for extension
611 has been filed before the expiration date and notice of the proposed extension is given to parties of record
612 and to the Department of Ecology.
- 613 D. The effective date of a shoreline permit shall be the date of filing with the Department of Ecology for a
614 substantial development permit or the date of decision by the Department of Ecology for any required
615 conditional use permit and/or variance. This excludes time for which a use or activity was not actually
616 pursued due to appeals, legal actions or the need to obtain other permits and approvals for the
617 development.
- 618 E. Revisions to permits lawfully extended under subsections (B) and (C) of this section and in accordance
619 with the provisions of MMC 22.82.160 (WAC 173-27-100) may be authorized after original permit
620 authorization has expired; provided, that this procedure shall not be used to extend the original permit time
621 requirements or to authorize substantial development after the time limits of the original permit.

622 F. The city of Monroe shall notify the Department of Ecology of any change to the effective date of a
623 permit, and explain the basis for approving the change in writing. Any change to the time limits of a permit,
624 except an extension under subsections (B) and (C) of this section, and except as authorized by RCW
625 90.58.143, shall require a new permit application.

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627 **22.82.160 Revisions to Permit.**

628 A permit revision is required whenever the applicant proposes substantive changes to the design, terms, or
629 conditions of an approved permit. Changes are substantive if they materially alter the project in a manner
630 that relates to its conformance to the terms and conditions of the permit, or compliance with the Master
631 Program. Changes which are not substantive in effect may not require approval of a revision; however, the
632 community development department must be notified and review the proposed revision to determine if the
633 revision is substantive or not.

634 A. When an applicant seeks to revise a substantial development, conditional use, or variance permit, the
635 community development department shall request from the applicant detailed plans and text describing the
636 proposed changes in the permit.

- 637 1. If the community development department determines that the proposed changes are within the
638 scope and intent of the original permit, the department may approve the revision, provided it is
639 consistent with the Shoreline Management Act and the Master Program.
- 640 2. "Within the scope and intent of the original permit" means the following:
 - 641 a. No additional over- or in-water construction will be involved.
 - 642 b. Lot coverage and height may be increased a maximum of ten percent from provisions of the
643 original permit; provided, that revisions involving new structures not shown on the original site plan
644 shall require a new permit.
 - 645 c. The revised permit does not authorize development to exceed height, lot coverage, setback, or
646 any other requirements of this Master Program, except as authorized under a variance granted by
647 the original permit or a part thereof.
 - 648 d. Additional or revised landscaping is consistent with any conditions attached to the original permit
649 and with the applicable Master Program.
 - 650 e. The use authorized pursuant to the original permit is not changed.
 - 651 f. The project revision will cause no adverse environmental impact.
- 652 3. The zoning administrator may authorize revisions to shoreline permits after the original permit
653 authorization has expired under RCW 90.58.143. The purpose of such revisions shall be limited to
654 authorization of changes, which are consistent with this section and which would not require a permit for
655 the development or change proposed under the terms of Chapter 90.58 RCW and the Master Program.
656 If the proposed change constitutes substantial development, then a new permit is required; provided,
657 this subsection shall not be used to extend the time requirements or to authorize substantial
658 development beyond the time limits of the original permit.
- 659 4. If the revision, or the sum of the revision and any previously approved revisions, will violate the
660 criteria specified above, the city shall require the applicant to apply for a new substantial development,
661 conditional use, or variance permit, in the manner provided for herein.
- 662 5. The department of community development shall file with the Department of Ecology the revision
663 approval, including the revised site plans and text consistent with the provisions of WAC 173-27-180 as
664 necessary to clearly indicate the authorized changes, and the final ruling on consistency with this
665 section. In addition, the city shall notify parties of record of their action.
- 666 6. If the revision to the original permit involves a conditional use or variance, the city shall submit the
667 revision to the Department of Ecology for final approval, approval with conditions, or denial. The
668 Department of Ecology shall render and transmit to the city and the applicant its final decision within
669 fifteen days of receipt of the submittal from the city. The city shall notify parties of record of the
670 Department of Ecology's final decision.
- 671 7. The revised permit is effective immediately upon final decision by the city or, when appropriate
672 under subsection (A)(6) of this section, upon final action by the Department of Ecology.
- 673 8. Appeals shall be in accordance with RCW 90.58.180 and shall be filed within twenty-one days from
674 the date of receipt of the city's action by the Department of Ecology or, when appropriate under
675 subsection (A)(6) of this section, the date the Department of Ecology's final decision is transmitted to the

676 city and the applicant. Appeals shall be based only upon contentions of noncompliance with the
677 provisions of subsection (A)(2) of this section. Construction undertaken pursuant to that portion of a
678 revised permit not authorized under the original permit is at the applicant's own risk until the expiration
679 of the appeals deadline. If an appeal is successful in proving that a revision is not within the scope and
680 intent of the original permit, the decision shall have no bearing on the original permit.
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682 **22.82.170 Zoning Administrator's Authority.**

683 The zoning administrator shall have the authority to immediately stop any work under a permit, which the
684 administrator believes, in good faith, is not in compliance with the permit or any other actions in violation of
685 the Master Program. Upon issuance of such a stop order, the permittee shall immediately cease and desist
686 such portion of the development which is ordered stopped, but may continue working on the other portions
687 of the development. As soon as it is practical thereafter, a hearing will be held before the city's hearing
688 examiner to determine whether the conditions of the permit were violated, and if so, whether to cancel the
689 permit or determine what other action should be taken. Notice of hearing shall be in the form and manner
690 prescribed in MMC Chapter 21.84, Permit Processing.
691

692 **22.82.180 Revocation of Permit.**

693 A. Any permit issued hereunder may be revoked by the hearing examiner upon a finding that a permittee
694 has not complied with the conditions of a permit, subject, however, to a hearing as hereinafter provided.
695 B. Before such permit is revoked by the hearing examiner, the city shall set a date for a public hearing
696 following the public notice requirements of MMC Chapter 21.84, Permit Processing, to determine whether
697 the permittee has violated the conditions of the permit.
698

699 **22.82.190 Violation – Penalties.**

700 Violations of the Shoreline Management Act or the Monroe Shoreline Master Program are subject to MMC
701 Chapter 1.04 and also constitute a misdemeanor, as specified in MMC 1.01.110.