

# *SEPA ENVIRONMENTAL CHECKLIST*

## *SHORELINE MASTER PROGRAM / CODE AMENDMENT*

### **A. Background**

**1. Name of proposed project, if applicable:**

City of Monroe Shoreline Master Program Periodic Review, Shoreline Regulations Update, and Critical Areas Regulations Update

**2. Name of applicant:**

City of Monroe (City)

**3. Address and phone number of applicant and contact person:**

Ben Swanson, Community Development Director  
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**4. Date checklist prepared:**

March 25, 2019

**5. Agency requesting checklist:**

City of Monroe

**6. Proposed timing or schedule (including phasing, if applicable):**

The City's Planning Commission will review the Shoreline Master Program (SMP) revisions on Monday, April 22, 2019 during a public hearing. This public hearing will fulfill the Department of Ecology's requirements for a joint review and comment period. The City Council is tentatively scheduled to discuss the SMP at an initial meeting in May of 2019 and adopt the Final SMP by Ordinance before June 30, 2019.

**7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.**

Periodic review of the City's Shoreline Master Program is required every eight years in accordance with RCW 90.58.080.

**8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.**

City of Monroe SMP Periodic Review Checklist (see Appendix A)

City of Monroe SMP City-Initiated Update Matrix (see Appendix B)

City of Monroe Codified Shoreline Regulations, and Critical Areas Regulations (Appendix C)

**9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.**

No pending applications or governmental approvals within the city limits would be affected by the SMP periodic review amendments.

**10. List any government approvals or permits that will be needed for your proposal, if known.**

The proposed SMP will need the following approvals:

- State Environmental Policy Act (SEPA) review and threshold determination for non-project actions;
- City Council adoption; and
- Washington State Department of Ecology approval (RCW 90.58.090).

Approval of findings of final ordinance and amendments by the Monroe City Council.

**11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)**

In 2003, the Shoreline Management Act (SMA), chapter 90.58 RCW, was amended to require cities to regularly update their SMP. For the City of Monroe, RCW 90.58.080(2) requires the City to review and update its SMP on or before June 30, 2019, and then once every eight years after the date of approval by the Department of Ecology, the regulatory body in charge of overseeing the periodic review.

The purpose of the statutorily-mandated periodic review is to assure that the City's SMP complies with the SMA and its implementing guidelines, WAC 173-26 to 173-27, and to assure consistency of the SMP with the City of Monroe's comprehensive plan and development regulations adopted under the Growth Management Act (GMA), chapter 36.70A RCW, and other local requirements. Proposed changes to the City's SMP fall primarily into two categories: those required by the Department of Ecology to incorporate changes in state guidance since the SMP was adopted in 2008 (see Appendix A Periodic Review Checklist), and those recommended by the City, primarily to update use standards and shoreline environment designations consistent with the City's 2015-2035 Comprehensive Plan (December 2015) and recently acquired and master-planned park/open space areas (see Appendix B

Matrix), and to integrate the City's Critical Areas Ordinance by reference (which was most recently updated in 2017) into the SMP.

The Department of Ecology developed a SMP Periodic Review Checklist for jurisdictions conducting their periodic review that provides guidance on amendments to state law, rules, and applicable guidance adopted between 2007 and 2017. The reviewed and completed City of Monroe periodic review checklist is included as Appendix A to this SEPA checklist.

RCW 90.58.090(4) and RCW 36.70A.480(3) requires SMPs to provide for management of designated critical areas located within shorelines of the state. The 2008 SMP incorporates critical areas standards directly into the SMP, such that critical areas protections within shoreline jurisdiction are different than those that apply in other areas of the City. Critical areas protections that apply outside of shoreline jurisdiction were most recently updated in 2017 (Ordinance 022/2017, codified currently as MMC Chapter 20.05). The current SMP update will integrate critical areas standards by reference, primarily incorporating the standards in MMC Chapter 20.05, with some focused additional updates and exclusions consistent with Ecology's most recent guidelines. Updating the SMP to integrate the critical areas standards by reference will improve consistency of standards across Monroe, and ease understanding and implementation moving forward.

The SMP code revisions identified in the Periodic Review Checklist and incorporated 2017 CAO code revisions are included as Appendix C to this SEPA checklist.

**12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.**

The SMP periodic review is a non-project action that affects activities, uses, and developments within the shoreline jurisdiction. Shoreline jurisdiction within the city of Monroe includes:

- Woods Creek,
- Skykomish River,
- Tye Stormwater Facility (Lake Tye), and
- Associated upland areas (shorelands) that are landward 200-feet of the OHWM from these three shorelines, as well as associated wetlands and associated floodplains as required by RCW 90.58.030.

The shoreline jurisdiction associated with the Skykomish River and Woods Creek extends across the southeast portion of Monroe city limits, and the shoreline jurisdiction associated with Lake Tye extends along the western city limits to the south of State Route 2.

## ***B. Environmental Elements***

### **1. Earth**

#### **a. General description of the site:**

**(circle one): Flat, rolling, hilly, steep slopes, mountainous, other \_\_\_\_\_**

The City's shoreline areas are characterized by low-lying floodplains extending from the Skykomish River, Woods Creek, and Lake Tye shorelines. Most of these low-lying areas consist of City-owned park and open space areas. The Skykomish River channel is wide and generally shallow, with dynamic shifts in gravel/sediment bar locations and channel alignment. Lake Tye itself is a 42-acre man-made stormwater lake that is approximately 30 feet deep, constructed primarily to provide stormwater detention and to alleviate flooding in surrounding floodplain areas.

**b. What is the steepest slope on the site (approximate percent slope)?**

Within the southern portion of the City's shoreline jurisdiction near 17<sup>th</sup> Ave SE and just outside of the northern portion of the City's shoreline area near Rivermont Ave there are steep slopes with a percent rise of 40% or greater (City of Monroe, 2015).

**c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.**

The City of Monroe has a large range of soil types. The Natural Resources Conservation Service (NRCS) indicates that the shoreline areas around Lake Tye has soil types classified as Bellingham silty clay loam, Puget silty clay loam and Terric medisaprists.

The area in the shoreline area around Woods Creek and the Skykomish contains soils that are classified as Kitsap silt loam, 25 to 50 percent slopes, Pilchuck loamy sand, pits, Puyallup fine sandy loam, Riverwash, Sultan silt loam and Urban land.

**d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.**

The slopes located at the northern and southern ends of the City's shoreline jurisdiction on the Skykomish River are at risk of landslides (Snohomish County, 2019). Additionally, most of the City's shoreline jurisdiction is located in an area that has moderate to high risk of liquefaction in the event of an earthquake (Snohomish County, 2015).

**e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.**

No specific filling or grading is proposed. The SMP states that any clearing and grading in the shoreline area, should minimize significant vegetation removal to the extent feasible. The City may require that the proposed development or extent of clearing and grading be modified to mitigate the impacts to ecological functions. Additionally, each shoreline environment has its own regulations regarding filling or grading.

**f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.**

There is potential for erosion to occur along the city's shoreline and could be exacerbated as a result of unplanned or poorly planned clearing, construction, or other use. The SMP includes provisions to limit clearing, retain existing native shoreline vegetation, manage stormwater, and provide erosion and sediment control (MMC Chapter 15.02, MMC 20.08.020 and MMC 20.08.070).

**g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?**

This is a non-project action with no specific construction resulting in new impervious surface.

**h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:**

The SMP includes provisions to limit clearing, retain existing native shoreline vegetation, manage stormwater, and provide erosion and sediment control (MMC Chapter 15.02, MMC 20.08.020 and MMC 20.08.070). The SMP regulations along with other City of Monroe regulations provide specific criteria to prevent and mitigate these impacts at the project level. These provisions are implemented on a project-by project basis.

**2. Air**

**a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.**

None

**b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**

No

**c. Proposed measures to reduce or control emissions or other impacts to air, if any:**

None

### 3. Water

#### a. Surface Water:

- 1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**

Primary surface waters are those that are designated shorelines, including the Skykomish River and Woods Creek, which flows into the Skykomish and originates from Lake Roesinger approximately 7 miles north of the city. Associated surface waters to the Skykomish River within city limits include the Cadman Pond (associated with former Cadman site gravel mining operations).

Lake Tye is the third designated shoreline, located along the western edge of city limits. Fryelands Drainage Ditch drains into the southeast corner of Lake Tye, and discharge from the controlled outlet is routed west to Cripple Creek and eventually to French Creek.

- 2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.**

Not applicable. As a non-project action, adoption of the SMP revisions would not require any in or overwater work. New development within shoreline jurisdiction would be subject to the provisions of the SMP, which includes specific standards for in and over-water structures (SMP Chapter 4.C, Chapter 5.D and Chapter 5.F). The SMP limits where new in-water or over-water structures could occur, prohibiting new facilities in many areas along the respective shorelines. Where allowed, the SMP generally limits such new in- or over-water structures to those providing water-dependent public access. Allowances for new development adjacent to shorelines must also be consistent with SMP provisions for allowed uses, required setbacks and vegetated buffers.

- 3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**

Not applicable. As a non-project action, adoption of the SMP revisions would not require any fill or dredging to be placed in or removed from surface water or wetlands. New development within shoreline jurisdiction would be subject to the provisions of the SMP, which includes specific standards for dredging and filling (SMP Chapter 2.C – Use Matrix; SMP Chapter 4.D).

- 4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.**

Not applicable. As a non-project action, adoption of the SMP revisions would not require any surface water withdrawals or diversions. New development within shoreline jurisdiction would be subject to the provisions of the SMP, which includes specific standards for utilities as a primary use, and prohibits any new public water system / treatment plants within shoreline jurisdiction (except where no feasible alternative exists and a conditional use permit is granted). City water supply is provided currently via the Spada Lake Reservoir (25

miles northeast of Monroe at headwaters of Sultan River) as part of a regional drinking water system with the City of Everett and the Snohomish County PUD; there are no plans or anticipated needs for surface water withdrawals or diversions within the City's shoreline jurisdiction.

**5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**

A significant portion of shoreline jurisdiction associated with the Skykomish River is located in a 100-year floodplain (FEMA 2010 Preliminary Digital Flood Insurance Rate Maps [DFIRMs] and 2005 Effective FIRMs). Additionally, the southern tip and northern portion of Lake Tye and associated shoreline jurisdiction is located within the 100-year floodplain.

**6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**

Not applicable. As a non-project action, no discharges of waste materials to surface waters are proposed. The City maintains a storm drainage system consisting of pipes, ponds, ditches, and bioswales. The majority of the system eventually discharges into one of Monroe's three shorelines consistent with the City's National Pollutant Discharge Elimination System (NPDES) Permit.

**b. Ground Water:**

**1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.**

Not applicable. As a non-project action, adoption of the SMP revisions would not require any groundwater withdrawals or discharges. New development within shoreline jurisdiction would be subject to the provisions of the SMP – including integrated provisions for protection of critical aquifer recharge areas, other City regulations for stormwater management and the *Department of Ecology Stormwater Management Manual*, which includes specific standards for groundwater withdrawals.

**2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

Not applicable. As a non-project action, adoption of the SMP revisions would not require any discharges of waste material into the ground. Existing and proposed developments in the shoreline is required to be connected to the sanitary sewer system (MMC 13.08.20). Where allowed, and new, replaced, or expanded docks or other in-water or over-water structures

would be constructed in accordance with Washington Department of Fish and Wildlife (WDFW) and U.S. Army Corps of Engineers Best Management Practices to avoid discharge of pollutants (SMP Chapter 5.D and Chapter 5.F).

**c. Water runoff (including stormwater):**

- 1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

As a non-project action, adoption of the SMP revisions will not result in new runoff. The SMP does not impact existing city-wide policies addressing the preservation and improvement of water quality. New development in the shoreline is required to comply with the provisions of the SMP, the City's development and surface water utility regulations, and the *Department of Ecology Stormwater Management Manual*.

- 2) Could waste materials enter ground or surface waters? If so, generally describe.**

As a non-project action, adoption of the SMP revisions will not result in waste materials entering ground or surface waters. The SMP requires shoreline use and development control and treatment of stormwater to protect and maintain water quality and quantity in accordance with the City's stormwater regulations.

- 3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.**

As a non-project action, adoption of the SMP revisions will not affect drainage patterns.

**d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:**

The SMP encourages management of stormwater throughout the city consistent with the City's stormwater management regulations (MMC Chapter 15.01 – Stormwater Management). Low impact development techniques are encouraged where feasible.

**4. Plants**

**a. Check the types of vegetation found on the site:**

- deciduous tree: alder, maple, aspen, other
- evergreen tree: fir, cedar, pine, other
- shrubs
- grass
- pasture
- crop or grain
- Orchards, vineyards or other permanent crops.
- wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other

- water plants: water lily, eelgrass, milfoil, other  
 other types of vegetation

**b. What kind and amount of vegetation will be removed or altered?**

Since this is a non-project action, the adoption of the SMP revisions will not result in the removal or alteration of any vegetation. It is one of the goals of the SMP to conserve, enhance and restore vegetation in the shoreline area.

**c. List threatened and endangered species known to be on or near the site.**

ESA listed Threatened fish species in the Skykomish and Woods Creek: Bulltrout, Steelhead, Chinook.

Potentially present ESA Threatened species include: Marbled Murrelet, Streaked Horned Lark, and Yellow-billed Cuckoo. Throughout Snohomish County, Gray Wolf and North American Wolverine are proposed for ESA listing.

**d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:**

The SMP encourages the conservation and restoration of native vegetation and includes a *Shoreline Restoration Plan*.

**e. List all noxious weeds and invasive species known to be on or near the site.**

Invasive plant species known to on or near the site are Fountain butterfly bush, Scot's broom, Herd Robert, English ivy, English holly, Yellow flag iris, Purple loosestrife, Reed canarygrass, Japanese knotweed, Cheery laurel, Evergreen blackberry and Himalayan blackberry (WSDOT, 2017).

**5. Animals**

**a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site.**

**Birds:** Raptors, Waterfowl, Bald Eagle, Peregrine Falcon, Vaux Swift, Gulls, songbirds

**Mammals:** Raccoons, Rodents, Deer, Opossum, Skunk, Beaver Otter

**Fish:** Chinook, Coho, Pink, Chum, Bull trout, Steelhead  
Lake Tye is a manmade lake and contains stocked trout.

Source: eBird, 2018; WDFW PHS, 2019

**b. List any threatened and endangered species known to be on or near the site.**

Listed under the Endangered Species Act (ESA) as endangered are Chinook salmon, steelhead trout and bull trout.

**c. Is the site part of a migration route? If so, explain.**

The site is located in the Pacific Flyway, which acts as a flight corridor for migrating waterfowl and other birds. The Pacific Flyway extends from the northern part of Alaska to Mexico and South America.

**d. Proposed measures to preserve or enhance wildlife, if any:**

The SMP provides regulations to minimize the impact of development on wildlife and associated habitat within the shoreline environment, including integrated Critical Areas Ordinance standards.

**e. List any invasive animal species known to be on or near the site.**

Rodents such as Norway rats (*Rattus norvegicus*) and nutria (*Myocastor coypus*) are likely to be present. American bullfrog (*Lithobates catesbeianus*) are likely present and prey on tree frogs and other native amphibians, reptiles and even birds.

## **6. Energy and Natural Resources**

**a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**

Not Applicable.

**b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

No. The SMP retains the maximum building height limits of the underlying zoning.

**c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:**

Not applicable.

## **7. Environmental Health**

**a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.**

Not applicable. Adoption of the SMP revisions would not result in exposing the public to any environmental harms.

**1) Describe any known or possible contamination at the site from present or past uses.**

Department of Ecology database identified one contaminated site, Monroe Auto Salvage, within the shoreline area that the cleanup has started at. There are also several sites located around the shoreline areas that are awaiting cleanup, cleanup has started at or cleanup has been completed (DOE, 2019).

**2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**

An underground gas transmission pipeline is found in the northeastern portion of Lake Tye (Pipe Line Safety Trust, 2019).

**3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**

Not applicable

**4) Describe special emergency services that might be required.**

Not applicable.

**5) Proposed measures to reduce or control environmental health hazards, if any:**

Not applicable.

**b. Noise**

**1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?**

Not applicable.

**2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.**

Not applicable.

**3) Proposed measures to reduce or control noise impacts, if any:**

Not applicable.

**8. Land and Shoreline Use**

**a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.**

The majority of the shoreline area that is located on the Skykomish River is open space and parkland, used primarily for recreation. This area contains Al Borlin Park, Skykomish River Centennial Park and the Cadman Inc. Sky River Facility, an old gravel mining site. The property located directly behind and west of Al Borlin Park has a variety of uses, but are primarily residential and commercial. The shoreline area that is located on Lake Tye is used commercially, industrially and for recreation (Lake Tye Park).

The SMP update will not have an effect on the current use of these properties, and will ensure that future uses and associated development activities will be consistent with the City's 2015-2035 Comprehensive Plan and the use standards in the SMP. Generally, current use patterns are consistent with the Comprehensive Plan.

**b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?**

No.

**1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:**

No.

**c. Describe any structures on the site.**

The City's shoreline jurisdiction is composed of a variety of structures. At the southern end of Lake Tye there is the Monroe Skatepark and several public facilities that serve the lake's park. On the northern portion of the lake there is a large building that contains several businesses and an Everett Community College Campus. Additionally, there are several industrial facilities located just within the shoreline area on the eastern side of the lake.

The City's shoreline jurisdiction on the Skykomish river includes the old Cadman Inc. Mining Facility, park facilities and features, single family residences and commercial buildings.

**d. Will any structures be demolished? If so, what?**

No.

**e. What is the current zoning classification of the site?**

The majority of the shoreline area is zoned as Limited Open Space (LOS) and Public Open Space (PS), which includes the majority of the shoreline area that is found in Al Borin Park, Skykomish River Centennial Park, the Cadman site and Lake Tye Park. Some of the area is zoned as Light Industrial (LI), Service Commercial (SC), Downtown Commercial (DC), General Commercial (GC), and Urban

Residential (UR6000, UR96000: City of Monroe 2015).

**f. What is the current comprehensive plan designation of the site?**

The Comprehensive Plan designations within the City's shoreline jurisdiction are Parks, Shoreline Industrial, Medium Density SFR, Downtown Commercial, General Commercial, Low Density SFR (City of Monroe, 2015). The majority of the shoreline area is located within the parks designations.

**g. If applicable, what is the current shoreline master program designation of the site?**

The City's SMP has 7 shoreline environment designations. The proposed update will maintain six of these designations: Aquatic (A), High Intensity (HI), Natural (N), Shoreline Residential (SR), Tye Stormwater Facility (TSW) and Urban Conservancy (UC). The proposed update would eliminate the Urban Conservancy Mining (UCM) designation and re-designate this area between Urban Conservancy (portion of former Cadman gravel mine being redeveloped by the City as park and open space) and High Intensity (the remaining industrial-zoned Cadman property, currently used as a gravel handling and distribution yard).

**h. Has any part of the site been classified as a critical area by the city or county? If so, specify.**

Critical areas that have been determined to be in the shoreline area are wetlands and landslide areas. The SMP update also includes updates to the Critical Areas regulations (City of Monroe, 2015).

**i. Approximately how many people would reside or work in the completed project?**

There is a small area where people live that is within the shoreline area and is designated as Shoreline Residential, with approximately 35 homes. Half of these homes are located on the western boundary of Al Borlin Park and the other half are located in the Monroe trailer park.

City Parks employees intermittently work within public park and open space areas in shoreline jurisdiction, completing park maintenance and supporting public activities. Additional employment is provided by private commercial and industrial businesses within the High Intensity environment; the exact number of people employed is unknown.

**j. Approximately how many people would the completed project displace?**

None.

**k. Proposed measures to avoid or reduce displacement impacts, if any:**

Not applicable.

**l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:**

The SMP establishes long-term planning goals and policies, specific development standards and uses regulations, and permitting and administrative procedures. It is a standalone document but is linked and consistent with the cities other planning documents like the *Monroe Comprehensive Plan* and *Monroe Municipal Code*.

**m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:**

Not applicable.

**9. Housing**

**a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

None. The proposed update would not provide housing or change the underlying Comprehensive Plan land use designations or zoning districts.

**b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**

None.

**c. Proposed measures to reduce or control housing impacts, if any:**

Not applicable.

**10. Aesthetics**

**a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

As the adoption of the proposed SMP revisions is a non-project action no specific new structures are proposed. The maximum height of a building in the shoreline area, based on zoning and the SMP is 50 ft.

**b. What views in the immediate vicinity would be altered or obstructed?**

No specific structures are proposed at this is a non-project action. If redevelopment was to occur the City's SMP states that development, uses and activities on or near the shoreline should not impair or detract from visual access to the water.

**c. Proposed measures to reduce or control aesthetic impacts, if any:**

The SMP states that all shoreline development, uses and activities should be designed and operated to avoid blocking, reducing or adversely interfering with the public's visual access to the water and shorelines. However, this excludes vegetation conservation and restoration project that may reduce or interfere with the public's visual access.

## 11. Light and Glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur?**

Not applicable.

- b. Could light or glare from the finished project be a safety hazard or interfere with views?**

Not applicable.

- c. What existing off-site sources of light or glare may affect your proposal?**

Not applicable.

- d. Proposed measures to reduce or control light and glare impacts, if any:**

The SMP includes measures to minimize light and glare.

## 12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity?**

Al Borlin Park, Skykomish River Centennial Park, Lewis Street Park and Lake Tye Park are all located within the shoreline jurisdiction.

- b. Would the proposed project displace any existing recreational uses? If so, describe.**

No.

- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:**

A goal of the Shoreline Management Act is to enhance and provide public access to recreational opportunities within Washington State. Monroe's SMP aims to provide more recreational opportunities and avoid interrupting them.

## 13. Historic and cultural preservation

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.**

There are no known buildings, structures or sites within Monroe's shoreline jurisdiction that are listed on the national, state or City historic registers. To the northwest of Al Borlin Park, at the edge of the Woods Creek / Skykomish River shoreline jurisdiction, there are residential structures and some commercial buildings that may be over 45 years old.

- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.**

According to the Washington State Department of Archaeology and Historic Preservation's (DAHP's) online database (Washington Information System for Architectural and Archaeological Records Data, or WISAARD), areas around the City range from low to very high risk for encountering cultural resources.

- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.**

No impacts to cultural or historic resources are anticipated as a result of adoption of the updated SMP.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**

No changes or disturbances to cultural or historic resources are anticipated as a result of adoption of the updated SMP; in fact, the SMP maintains provisions for consideration of cultural and historic resources that the City will enforce for any future development proposals (SMP Chapter 3.C)

## **14. Transportation**

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.**

The shoreline around Lake Tye is served by Fryelands Boulevard. The Cadman Inc. Sky River Facility located within the Skykomish shoreline area is served by 177<sup>th</sup> Ave SE and Skykomish River Centennial Park is served by Sky River Pkwy. Al Borlin Park is served by S Lewis St and Simons Rd. The area located in the shoreline area just behind Al Borlin Park, which includes residential and commercial uses is served by S Lewis St, E Fremont St, South Ferry Ave, S Ann St, Simons Rd and Railroad Ave. The northern part of the shoreline area near Woods Creek and the Skykomish River is served by US Highway 2, Old Owen Rd, 204<sup>th</sup> Ave Se and Calhoun Rd.

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?**

The shoreline jurisdiction around Lake Tye is not currently served by public transit and the nearest stop is 0.6-miles away at the intersection of Fryelands Blvd and 156<sup>th</sup> St SE. The

shoreline jurisdiction located on the Skykomish has a transit stop that is located 0.2-miles away from Skykomish River Centennial Park.

**c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?**

The completed project would not require any additional parking spaces as it is a non-project action.

**d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).**

NO.

**e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

There are no surrounding water, rail, or air transportation uses. First Air Field is located within city limits approximately 2,200 feet to the east of the north end of Lake Tye on the other side of Highway 2.

**f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?**

Not applicable. The SMP revisions are a non-project action.

**g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.**

Not applicable.

**h. Proposed measures to reduce or control transportation impacts, if any:**

The SMP requires that proposed transportation and parking facilities should be located, planned, and designed to prevent net loss of shoreline ecological functions and should not have adverse impacts on other shoreline uses, public access or recreation

## **15. Public Services**

**a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.**

No.

**b. Proposed measures to reduce or control direct impacts on public services, if any.**

Not applicable.

**16. Utilities**

**a. Circle utilities currently available at the site:**

Electricity, water, telephone, sanitary sewer

**c. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.**

No new utilities are proposed. The updated SMP states that all utility facilities should be designed and located to prevent net loss to 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.

The SMP requires that any future proposals for utilities (whether as accessory to permitted uses, or as a permitted primary use) be located inland from the land/water interface, preferably out of shoreline jurisdiction, unless this location is reasonably necessary within the shoreline environment. Utilities as a primary use are prohibited within the Natural environment and require conditional use permit approval throughout the Urban Conservancy and Aquatic environments. Utilities are required to be located and designed to avoid negative impacts to public access area and significant natural, historic, archaeological or cultural resources. Utilities are also encouraged to be jointly used with other utility and transportation rights-of-way. Underground utility facilities are preferred over above ground utility facilities. (SMP Chapter 3.K [Accessory Utilities]; Chapter 5.I [Utilities as Primary Use])

**C. Signature**

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:  \_\_\_\_\_

Name of signee Anita Marrero

Position and Agency/Organization Senior Planner, City of Monroe

Date Submitted: March 25, 2019

#### **D. Supplemental sheet for nonproject actions**

**1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?**

The proposal would not increase discharges to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise. All development and redevelopment in the shoreline jurisdiction is subject to applicable local, state and federal regulatory requirements, in addition to the provisions of the SMP and other development code standards.

**Proposed measures to avoid or reduce such increases are:**

The SMP includes policies and regulations for the protection of shoreline environment, addressing impacts of specific uses and shoreline modifications. The development standards and regulation of shoreline uses and modifications provide more protection for shoreline ecological processes and functions. The standards and regulations limit activities that could result in adverse impacts to the shoreline environment.

**2. How would the proposal be likely to affect plants, animals, fish, or associated habitats?**

The SMP was developed, in part, to meet the goal of "no net loss" of shoreline ecological functions. Degradation of the natural environment and shoreline ecological functions due to development will be avoided, minimized, or mitigated in accordance with the SMA. Additionally, the *City of Monroe Shoreline Restoration Plan (SMP Chapter 7)* addresses the goal of improving shoreline ecological functions that have been degraded over time from past development activities. The SMP (including with proposed updates) provides for protection and enhancement of fish and wildlife habitat, natural vegetation, and management of critical areas through goals, policies, development standards, use regulations, and mitigation requirements.

**Proposed measures to protect or conserve plants, animals, fish, or habitat are:**

The SMP revisions would incorporate the critical areas regulations adopted in 2017. These critical area regulations are more protective of plants, animals, fish and associated habitats than the current SMP; in addition, the integrated critical areas standards would be further updated to ensure protection of extensive important plants, animals, and associated habitats throughout shoreline jurisdiction.

Additional protections of native vegetation and limitations on shoreline developments are also provided for in the SMP. The SMP requires that all uses and developments (even exempt activities) achieve no net loss of ecological functions.

**3. How would the proposal be likely to deplete energy or natural resources?**

The SMP revisions would not result in depletion of energy or natural resources. All future extractive or resource based industries, such as mining or forestry are prohibited in all shoreline environments in the SMP. Past mining activities at the Cadman Site have stopped and gravel mine reclamation has been completed. This SMP updates the shoreline environment designation for this area to clarify that no future mining activity will be permitted

**Proposed measures to protect or conserve energy and natural resources are:**

The shoreline environments and regulations were developed with the intent to preserve the city's natural resources.

**4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

Generally, The SMP establishes policies and regulations protecting and conserving critical areas (SMP Chapter 3.D - critical areas regulations integrated by reference) including threatened or endangered species habitat and wetlands. The SMP revisions would incorporate a critical areas ordinance that is more protective of critical areas than the current SMP.

Increased public access to extensive publicly-owned areas of the shoreline is a goal of the City's SMP with regulations supporting this goal (SMP Chapter 3.H1 – Public Access policies). Another goal of the City's SMP is the identification, preservation, protection, and restoration of shoreline areas, buildings, and sites having historical, cultural educational, and scientific values (SMP Chapter 3.C.1). Floodplain management policies and regulations in the SMP include limiting upland development in areas that are historically flooded and integrating public access into the design of flood management facilities (integrated floodplain standards through critical areas regulations). The Shoreline Restoration Plan would provide the city and its residents opportunities to improve or restore ecological functions that have been impaired as a result of past development activities (SMP Chapter 7). In addition, the SMP would complement the existing city, state, and federal efforts to protect shoreline functions and values.

The Skykomish River upstream of the city is a designated wild and scenic river (starting at the confluence with the Sultan River and moving upstream from there; RCW 79A.55.070). The City's shoreline jurisdiction does not contain wild and scenic rivers, wilderness areas or prime farmlands.

**Proposed measures to protect such resources or to avoid or reduce impacts are:**

The SMP was developed to be consistent with the state shoreline guidelines (WAC 173-26). The WAC provides a level of protection to assure no net loss of ecological functions and values. Measures include protection of critical areas by buffering and enhancement and protections of the native shoreline vegetation.

**5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

The City of Monroe generally has an established land use pattern in the shoreline area that predates current codes and regulations. The pattern includes extensive park and open space areas owned and managed by the City, and limited areas of existing higher intensity commercial, residential, and industrial use. Primary anticipated future development activities will be public parks projects that improve recreation and access opportunities while also restoring and enhancing ecological functions both within the Skykomish River / Woods Creek jurisdiction and around Lake Tye.

**Proposed measures to avoid or reduce shoreline and land use impacts are:**

Redevelopment that will occur over time will be subject to the SMP and other City regulations. The SMP contains shoreline environment designations consistent with both the existing land use pattern and Comprehensive Plan land use designations.

**6. How would the proposal be likely to increase demands on transportation or public services and utilities?**

The SMP revisions do not establish new or increased density of land use patterns. Reasonable foreseeable development will likely be redeveloped property and public parks improvements rather than new development within the city limits. The City has completed an extensive outreach and planning effort for park and open space improvements at the former Cadman Site and at Lake Tye Park; when developed, these improvements will result in anticipated increases in associated public services. These improvements will be reviewed for consistency with the updated SMP.

The SMP revisions will not directly impact demand on transportation, public services, or utilities because they do not directly alter the redevelopment potential of any sites.

**Proposed measures to reduce or respond to such demand(s) are:**

No specific measures are proposed as increased demands are not anticipated.

**7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

The updated SMP is designed to be consistent with other local, state and federal laws. The proposal updates and integrates by reference the critical areas regulations from 2017 that were deemed to meet the test for "best available science" and provides greater protection for critical areas such as wetlands, streams, fish and wildlife habitat conservation areas and geologically hazardous areas.

## References

City of Monroe. 2018. *Comprehensive Plan 2015-2035*.

<https://www.monroewa.gov/DocumentCenter/View/3716/2015-2035-Comprehensive-Plan-FINAL?bidId=>

eBird. 2018. Birding Hotspots mapper. <https://ebird.org/hotspot/L866452>

Ecology (Washington State Department of Ecology). 2019. *What's In My Neighborhood*.

<https://fortress.wa.gov/ecy/neighborhood/>

FEMA. 2019. FEMA Flood Map Service Center.

<https://msc.fema.gov/portal/search?AddressQuery=47108%20&%2047%20N%20CHERRY%20ST%20Hammond,%20LA#searchresultsanchor>

Natural Resources Conservation Service (NRCS). 2015. *Web Soil*

*Survey*<http://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>.

Pipeline Safety Trust. 2019. National Pipeline Mapping System.

<https://pvnpm.phmsa.dot.gov/PublicViewer/>

Snohomish County. 2015. *Hazard Mitigation Plan Summary*.

<https://snohomishcountywa.gov/DocumentCenter/View/37255/HMP-Summary-Sept-2015-Final>

Snohomish County. 2019. Natural Hazard Viewer. [https://snoco-](https://snoco-gis.maps.arcgis.com/apps/MapSeries/index.html?appid=8924ce09ff58487ea905e63210ee7cdf)

[gis.maps.arcgis.com/apps/MapSeries/index.html?appid=8924ce09ff58487ea905e63210ee7cdf](https://snoco-gis.maps.arcgis.com/apps/MapSeries/index.html?appid=8924ce09ff58487ea905e63210ee7cdf)

WDFW (Washington State Department of Fish and Wildlife). 2019. *PHS on the Web*.

<http://apps.wdfw.wa.gov/phsontheweb/>.

WSDOT (Washington State Department of Transportation). 2017. *SR 522 Snohomish River Bridge to US 2 (Al Borlin Park & French Creek Tributary) Mitigation Sites, USACE NWP (14) NWS-2010-31*.

<https://www.wsdot.wa.gov/sites/default/files/2017/06/14/Env-Wet-MonRpt-AlBorlin2016.pdf>

# Appendix A

Ecology Periodic Review Checklist



## City of Monroe Shoreline Master Program Periodic Update Periodic Review Checklist

### Introduction

This document is intended to provide an overview of the city’s Shoreline Master Program (SMP) Periodic Review Update that is necessary to bring the City into compliance with state law. This review is intended to keep the City’s SMP current with amendments to state laws or rules, changes to local plans and regulations, and changes to address local circumstances, new information or improved data. The review is required under the Shoreline Management Act (SMA) at [RCW 90.58.080\(4\)](#). Monroe is required to update its Shoreline Master Program by June 30, 2019.

This checklist summarizes the City’s responses to state law amendments, adopted rules and applicable Department of Ecology guidance documents between 2007 and 2017. This document is a living document and will be updated throughout the periodic review process to reflect necessary SMP amendments and responses to how those amendments were addressed.

### State Law, Rules and DOE Guidance – Shoreline Management Regulations

Row	Summary of change	Review	Action
2017			
a.	OFM adjusted the <b>cost threshold for substantial development</b> to \$7,047.	2008 SMP includes reference to previous \$5,000 cost threshold. Amend definition of “Substantial Development” to reflect the cost threshold to new inflation adjusted amount of \$7,047.	
b.	Ecology amended rules to clarify that the <b>definition of “development”</b> does not include dismantling or removing structures.	2008 SMP does not clarify that removing structures does not constitute “development.” Update per Ecology’s recommended language.	
c.	Ecology adopted rules that clarify <b>exceptions to local review under the SMA</b> .	2008 SMP does have a section on exceptions. Exemptions are listed in MMC 19.01.060 and references WAC 173-27-040 but not exceptions. Update per DOE recommended language and create a new section for Exceptions.	
d.	Ecology amended rules that clarify <b>permit filing procedures</b> consistent with a 2011 statute.	Update MMC 19.01 to clarify permit filing procedures with DOE . “Date of filing” replaces “date of receipt”. Possibly add a separate section titled	

Row	Summary of change	Review	Action
		"Filing with the Department of Ecology."	
e.	Ecology amended <b>forestry use regulations</b> to clarify that forest practices that only involves timber cutting are not SMA "developments" and do not require SDPs.	Not applicable. No commercial forestry in the city.	No Action Required
f.	Ecology clarified the SMA does not apply to lands under <b>exclusive federal jurisdiction</b>	Not applicable. No lands with exclusive federal jurisdiction in city limits.	No Action Required
g.	Ecology clarified "default" provisions for <b>nonconforming uses and development</b> .	2008 SMP includes tailored nonconforming uses and development standards. Review to see if this section needs to be updated.	
h.	Ecology adopted rule amendments to clarify the scope and process for conducting <b>periodic reviews</b> .	2008 SMP does not state the scope and process for conducting periodic reviews of SMPs required by RCW 90.58.080(4). Review for consistency.	
i.	Ecology adopted a new rule creating an <b>optional SMP amendment process</b> that allows for a shared local/state public comment period.	2008 SMP does not address the details of the optional SMP amendment process. Can be added to the SMP of land use code.	
j.	<b>Submittal</b> to Ecology of proposed SMP amendments.	2008 SMP does not address the details of the SMP submittal process.	
<b>2016</b>			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the <b>Americans with Disabilities Act</b> .	MMC 19.01.060 references WAC 173-27-040 and Chapter 90.58 RCW.	No Action Required
b.	Ecology updated <b>wetlands critical areas guidance</b> including implementation guidance for the 2014 wetlands rating system.	The city's 2017 Critical Areas Ordinance incorporates Ecology's new rating system and other clarifications. Need to update the CAO in the SMP.	
<b>2015</b>			
a.	The Legislature adopted a <b>90-day target</b> for local review of Washington State Department of	Review for consistency. Update per Ecology's recommended language.	

Row	Summary of change	Review	Action
	Transportation (WSDOT) projects.		
2014			
a.	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for <b>replacement docks on lakes and rivers</b> to \$20,000 (from \$10,000).	The Shoreline Management code cites the RCW for lists of exemptions.	No Action Required
b.	The Legislature created a new definition and policy for <b>floating on-water residences</b> legally established before 7/1/2014.	The city does not have any floating on-water residences.	No Action Required
2012			
a.	The Legislature amended the SMA to clarify <b>SMP appeal procedures</b> .	SMP does not clarify the SMP appeal process. The city will rely on state laws and rules.	No Action Required
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved <b>federal wetland delineation manual</b> .	The 2017 CAO references the federal wetland delineation manual. Incorporate the updated CAO in the SMP.	
b.	Ecology adopted rules for new commercial <b>geoduck aquaculture</b> .	There are no marine shorelines in the city.	No Action Required
c.	The Legislature created a new definition and policy for <b>floating homes</b> permitted or legally established prior to January 1, 2011.	There are no floating homes in the city.	No Action Required
d.	The Legislature authorized a new <b>option to classify existing structures as conforming</b> .	Review for consistency.	
2010			
a.	The Legislature adopted <b>Growth Management Act – Shoreline Management Act clarifications</b> .	Review for consistency.	
2009			
a.	The Legislature created new “relief” procedures for instances in which a <b>shoreline restoration project within a UGA</b> creates a	Add new section for Requests for Relief from Shoreline Regulations if needed.	

<b>Row</b>	<b>Summary of change</b>	<b>Review</b>	<b>Action</b>
	shift in Ordinary High Water Mark.		
<b>b.</b>	Ecology adopted a rule for certifying <b>wetland mitigation banks</b> .	Wetland Mitigation Banking is allowed in current CAO regulations.	No Action Required
<b>c.</b>	The Legislature added <b>moratoria authority</b> and procedures to the SMA.	Current regulations do not address SMP Moratoria Authority. Add new section or rely on the statute or adopt these provisions into other ordinances.	
<b>2007</b>			
<b>a.</b>	The Legislature clarified <b>options for defining "floodway"</b> as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	2008 SMP (Figure 8) shows the Floodway Area using FEMA FIRM maps. Add the definition of "floodway" per Ecology's recommended language.	
<b>b.</b>	Ecology amended rules to clarify that comprehensively updated SMPs shall include a <b>list and map of streams and lakes</b> that are in shoreline jurisdiction.	2008 SMP lists the Skykomish River, Woods Creek, and Lake Tye in the SMP Inventory but there is not a separate list or map of streams and lakes. Add a list and map of streams and lakes.	
<b>c.</b>	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include <b>fish habitat enhancement projects</b> that conform to the provisions of RCW 77.55.181.	MMC 19.01.060(A)(1) relies on reference to statute.	No Action Required

# Appendix B

City-Initiated SMP Update Matrix

**City of Monroe**  
**2018 Shoreline Master Program (SMP) Periodic Update**  
**Recommended Updates Matrix PARTIAL DRAFT**

Existing SMP Provision NBMC Section	Recommendation for Update	Suggested Change	Reason for Suggested Change	Direction from City	Code Update Tracking
<b>Global SMP Revisions</b>					
<b>Chapter 1: Introduction</b>					
Chapter 1: Global revision	<input checked="" type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity and consistency <input type="checkbox"/> Revise – updated state law or guidance	Removed and revised sections within chapter to eliminate redundancy and improve clarity for the City and applicants.  Removed all “Ammendment History” content – suggest placing this in a new “Appendix D” if the City desires to keep.			
Chapter 1	<input type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity and consistency <input type="checkbox"/> Revise – updated state law or guidance	Added a new section titled “B. Title” to improve clarity of common terms used in document.			
Chapter 1	<input type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity and consistency <input type="checkbox"/> Revise – updated state law or guidance	Added a new section titled “C. Applicability” to clarify there is compliance with RCW 90.58			
Chapter 1	<input type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity and consistency <input type="checkbox"/> Revise – updated state law or guidance	Added a new section titled “E. Document Organization” to improve consistency with remainder of program.			
<b>Chapter 2: Environment Designation Provisions</b>					
Section B: Global Revision	<input type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity and consistency	Update references for ‘Cadman operations’ to ‘Cadman Site’ within section			

Existing SMP Provision NBMC Section	Recommendation for Update	Suggested Change	Reason for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Revise – updated state law or guidance				
B.4 “Urban Conservancy” Environment	<input type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity/consistency with other code sections <input type="checkbox"/> Revise – updated state law or guidance	Update designation to include Cadman Site area because it is under current City ownership and is planned for park use under the Parks Master Plan			
B.5 “Urban Conservancy – Mining” Environment	<input type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity/consistency with other code sections <input type="checkbox"/> Revise – updated state law or guidance	Remove section since the Cadman Site area is under current City ownership and is planned for park use under the Parks Master Plan.			
<b>Chapter 3: General Provisions</b>					
Chapter 3 – Global revision	<input type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity <input type="checkbox"/> Revise – updated state law or guidance	Consider moving ‘Regulations’ section for each use/activity section to City code, such that the SMP Regulations are codified along with other City development standards.			
	<input type="checkbox"/> Remove – redundant or unnecessary <input type="checkbox"/> Revise for clarity <input type="checkbox"/> Revise – updated state law or guidance	[ADDITIONAL REVISIONS AND SUGGESTIONS WILL FOLLOW INITIAL CITY REVIEW OF PRELIMINARY / PARTIAL DRAFT EDITS]			
<b>Chapter 4: Shoreline Modification Provisions</b>					
	<input type="checkbox"/> Remove – redundant or unnecessary <input type="checkbox"/> Revise for clarity or consistency <input type="checkbox"/> Revise – updated state law or guidance	[REVISIONS WILL FOLLOW INITIAL CITY REVIEW OF PRELIMINARY / PARTIAL DRAFT EDITS]			
<b>Chapter 5: Shoreline Use Provisions</b>					

Existing SMP Provision NBMC Section	Recommendation for Update	Suggested Change	Reason for Suggested Change	Direction from City	Code Update Tracking
B.1 Commercial Development - Applicability	<input checked="" type="checkbox"/> Remove – redundant or unnecessary <input type="checkbox"/> Revise for clarity or consistency <input type="checkbox"/> Revise – updated state law or guidance	Consider removing section and adding definition for “commercial development” within Chapter 8 (Definitions) to improve redundancy of section and improve its organization.			
B.2 Commercial Development -Policies	<input checked="" type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity or consistency <input type="checkbox"/> Revise – updated state law or guidance	Remove and revise text that is redundant with previous sections. B.2.3: Revise to include no net loss of shoreline ecological functions from commercial development B.2.6, B.2.7: Remove text for redundancy			
B.3 Commercial Development - Regulations	<input checked="" type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity or consistency <input type="checkbox"/> Revise – updated state law or guidance	B.3.2: Clarify that development is also permitted depending on underlying zoning B.3.3: Revise to include no net loss of shoreline ecological functions B.3.3, B.3.4, B.3.5: Remove text for redundancy			
C.1 Industry - Applicability	<input checked="" type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity or consistency <input type="checkbox"/> Revise – updated state law or guidance	Consider removing section and adding definition for “industry” within Chapter 8 (Definitions) to improve redundancy of section and improve its organization. Also, move allowance for industrial development within High Intensity and Tye Stormwater facility environments into Policies section.			
C.2 Industry – Policies	<input checked="" type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity or consistency <input type="checkbox"/> Revise – updated state law or guidance	C.2.1: Remove for redundancy C.2.3: Revise for redundancy and clarify there will no net loss of shoreline ecological functions.			
C.3 Industry - Regulations	<input checked="" type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity or consistency <input type="checkbox"/> Revise – updated state law or guidance	C.3.1: Revise for redundancy and improve readability. C.3.2, C.3.4, C.3.7: Remove for redundancy; impervious surface requirements are already covered by MMC 18.20.220 C.3.3: Revise for clarity and state there will be no net loss of shoreline ecological functions. C.3.5: Remove regulation, redundant with C.3.1			
<b>Chapter 6: Administrative Provisions</b>					

Existing SMP Provision NBMC Section	Recommendation for Update	Suggested Change	Reason for Suggested Change	Direction from City	Code Update Tracking
	<input type="checkbox"/> Remove – redundant or unnecessary <input type="checkbox"/> Revise for clarity or consistency <input type="checkbox"/> Revise – updated state law or guidance				
<b>Chapter 7: Shoreline Restoration Plan</b>					
	<input type="checkbox"/> Remove – redundant or unnecessary <input type="checkbox"/> Revise for clarity or consistency <input type="checkbox"/> Revise – updated state law or guidance				
<b>Chapter 8: Definitions</b>					
	<input type="checkbox"/> Remove – redundant or unnecessary <input checked="" type="checkbox"/> Revise for clarity or consistency <input type="checkbox"/> Revise – updated state law or guidance	Add definition for “floodway”	The Legislature clarified options for defining “floodway” as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.		
	<input type="checkbox"/> Remove – redundant or unnecessary <input type="checkbox"/> Revise for clarity <input checked="" type="checkbox"/> Revise – updated state law or guidance	Add definition for “development” consistent with Ecology’s recommended language.			
	<input type="checkbox"/> Remove – redundant or unnecessary <input type="checkbox"/> Revise for clarity <input checked="" type="checkbox"/> Revise – updated state law or guidance	Revise definition of “Substantial Development” to reflect the cost threshold to new inflation adjusted amount of \$7,047 per RCW 90.58.030.			
	<input type="checkbox"/> Remove – redundant or unnecessary <input type="checkbox"/> Revise for clarity <input type="checkbox"/> Revise – updated state law or guidance				

# Appendix C

Proposed Revisions to Shoreline Master Program  
& Monroe Municipal Code – Unified Development Regulations

Chapter 22.82 – Shoreline Management  
Chapter XX.XX – Critical Areas

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**CHAPTER 22.82**  
**SHORELINE MASTER PROGRAM**

**Sections:**

- 5 **22.82.010** Shoreline Master Program Adopted.  
6 **22.82.020** Shoreline Environment Designations.  
7 **22.82.030** Compliance Required.  
8 **22.82.040** Permitted Uses.  
9 **22.82.050** Nonconforming Uses.  
10 **22.82.060** Exemptions.  
11 **22.82.070** Permit – Fees.  
12 **22.82.080** Application – Form.  
13 **22.82.090** Review Process.  
14 **22.82.100** Notice and Hearing Requirements.  
15 **22.82.110** Review Process and Criteria for Substantial Development Permits.  
16 **22.82.120** Conditional Uses and Variances.  
17 **22.82.130** Appeals.  
18 **22.82.140** Commencement of Construction – Time Lapse.  
19 **22.82.150** Time Requirements of Permit.  
20 **22.82.160** Revisions to Permit.  
21 **22.82.170** Zoning Administrator's Authority.  
22 **22.82.180** Revocation of Permit.  
23 **22.82.190** Violation – Penalties.

**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 <sup>1</sup>
<b>SHORELINE USE</b>						
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 <sup>1</sup>
Boating facilities (see notes and SMP Chapter 5, Section F)	X	X	C <sup>6</sup>	X	P <sup>9</sup>	P
<b>Commercial:</b>						
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 <sup>4</sup>	P	P	P	P	X
Forest practices <sup>7</sup>	X	P	P	P	P	X
In-stream structures	X	C	C	C	C	C
<b>Industrial:</b>						
Water-dependent	X	P	X	X	X	X
Water-related, water-enjoyment	X	P	X	X	X	X
Non-water-oriented	X	C <sup>5</sup>	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
<b>Recreation:</b>						
Water-dependent	C	P	P	P	P	C
Water-related, water-enjoyment	C	P	P	P	P	C
Non-water-oriented	X	C	C <sup>2</sup>	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
<b>Signs:</b>						
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 <sup>1</sup>
<b>Transportation:</b>						
Water-dependent	X	P	P	P	P	C
Non-water-oriented	X	P <sup>3</sup>	C <sup>3</sup>	C <sup>3</sup>	P	C
Roads, railroads	X	P <sup>3</sup>	C <sup>3</sup>	P <sup>3</sup>	P	C
Utilities (primary)	X	P <sup>3</sup>	C <sup>3</sup>	P <sup>3</sup>	P	C
<b>SHORELINE MODIFICATIONS</b>						
<b>Shoreline stabilization:</b>						
Beach restoration/enhancement	C <sup>4</sup>	P	P <sup>4</sup>	P	P	See adjacent upland environment
Bioengineering	C <sup>4</sup>	P	P <sup>4</sup>	P	P	
Revetments	X	C <sup>4</sup>	C <sup>4</sup>	C <sup>4</sup>	C	
Bulkheads	X	C <sup>4</sup>	C <sup>4</sup>	C <sup>4</sup>	C	
Breakwaters/jetties/rock weirs/groins	X	X	X	X	X	
Dikes, levees	X	X	X	X	P	
Dredging	X	X	X	X	P <sup>10</sup>	
Hazardous waste cleanup <sup>5</sup>	P	P	P	P	P	
Fill	X	X	X	X	P	
Piers, docks	X	X	X	X	X <sup>11</sup>	

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 ( $\leq 1.5$  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 **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 B. General standards.

- 137  
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.

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478 **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  
483 **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  
488 **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  
498 **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  
512 **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.  
526

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.

626  
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.  
681

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.

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**CHAPTER 22.80  
CRITICAL AREAS**

23

**Sections:**

- 5 **22.80.010** Authority.  
6 **22.80.020** Purpose.  
7 **22.80.030** Applicability of Other Regulations.  
8 **22.80.040** Maps and Inventories.  
9 **22.80.050** Applicability, Exemptions, Exceptions, and Allowed Uses.  
10 **22.80.060** Nonconforming Uses.  
11 **22.80.070** Critical Areas Studies.  
12 **22.80.080** Protection and Mitigation Measures.  
13 **22.80.090** Wetland Development Standards.  
14 **22.80.100** Stream Development Standards.  
15 **22.80.110** Fish and Wildlife Habitat Conservation Areas Standards.  
16 **22.80.120** Flood Hazard Area Development Standards.  
17 **22.80.130** Geologically Hazardous Areas.  
18 **22.80.140** Bonds.  
19 **22.80.150** Appeal.  
20 **22.80.160** Enforcement.

23 **22.80.010 Authority.**

24 This chapter is adopted under the authority of Chapter 36.70A RCW (the Growth Management Act), other  
25 federal and state environmental regulations, including but not limited to the State Environmental Policy Act,  
26 and the State and Federal Endangered Species Acts.

27  
28 **22.80.020 Purpose.**

29 The purpose of this chapter is to:

- 30 A. Protect the public health, safety and welfare by preventing adverse impacts of development;  
31 B. Preserve and protect critical areas as identified by the Washington State Growth Management Act by  
32 regulating development within and adjacent to them;  
33 C. Mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas;  
34 D. Prevent adverse cumulative impacts to wetlands, streams, shoreline environments, and fish and wildlife  
35 habitat;  
36 E. Protect the public and public resources and facilities from injury, loss of life, property damage or  
37 financial loss due to flooding, erosion, landslides, soils subsidence or steep slope failure;  
38 F. Implement the goals, policies, guidelines and requirements of the city of Monroe comprehensive plan  
39 and the Washington State Growth Management Act; and  
40 G. Establish review procedures for development proposals in and adjacent to wetlands.

41  
42 **22.80.030 Applicability of Other Regulations.**

43 Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and  
44 local regulations and permit requirements that may be required (for example, shoreline substantial  
45 development permits, HPA permits, Army Corps of Engineers Section 404 permits, NPDES permits).

46 The applicant is responsible for complying with these requirements, apart from the process established in  
47 this chapter.

48  
49 **22.80.040 Maps and Inventories.**

50 The city has prepared a series of maps which approximate boundaries for the following critical areas within  
51 the city limits: geologically hazardous areas, wetlands, floodplains and floodways, shorelines, creeks,  
52 streams, and natural drainage courses. These maps provide only approximate boundaries of known  
53 features and are not adequate substitutes for more detailed maps and/or studies that could identify  
54 alternative locations of known features or additional critical area features not illustrated on the map. Copies

55 of the maps are available for viewing at the Monroe City Hall. The Flood Insurance Rate Maps (FIRM) are  
56 available for review at Monroe City Hall; please contact the city engineer.

57 **22.80.050 Applicability, Exemptions, Exceptions, and Allowed Uses.**

58 A. Applicability.

59 1. The provisions of this chapter shall apply to all lands, all land uses and development activity, and all  
60 structures and facilities in the city, whether or not a permit or authorization is required, and shall apply to  
61 every person, firm, partnership, corporation, group, governmental agency, or other entity that owns or  
62 leases land within the city of Monroe. No person, company, agency, or applicant shall alter a critical  
63 area or buffer except as consistent with the purpose and requirements of this chapter.

64 2. The city of Monroe shall not approve any development proposal or otherwise issue any authorization  
65 to alter the condition of any land, water, or vegetation, or to construct or alter any structure or  
66 improvement in, over, or on a critical area or associated buffer, without first assuring compliance with  
67 the requirements of this chapter.

68 a. Development proposals include proposals that require any of the following:

- 69 i. Building permit;
- 70 ii. Grading permit;
- 71 iii. Shoreline substantial development permit;
- 72 iv. Shoreline conditional use permit;
- 73 v. Shoreline variance;
- 74 vi. Right-of-way disturbance permit;
- 75 vii. Conditional use permit;
- 76 viii. Variance permit;
- 77 ix. Subdivision;
- 78 x. Short subdivision;
- 79 xi. Binding site plan;
- 80 xii. Accessory dwelling unit; or
- 81 xiii. Any subsequently adopted permits or required approvals not expressly exempted from these  
82 regulations.

83 3. Approval of a permit or development proposal pursuant to the provisions of this chapter does not  
84 discharge the obligation of the applicant to comply with the provisions of this chapter.

85 B. Exemptions. The following developments, activities, and associated uses shall be exempt from the  
86 provisions of this chapter, provided they are consistent with the provisions of other local, state, and federal  
87 laws and requirements:

88 1. Development and activities occurring in all isolated Category IV wetlands less than four thousand  
89 square feet that:

- 90 a. Are not associated with riparian areas or their buffers;
- 91 b. Are not associated with shorelines of the state or their associated buffers;
- 92 c. Are not part of a wetland mosaic;
- 93 d. Do not score ~~five~~ ~~six~~ or more points for habitat function based on the 2014 update to the  
94 Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology  
95 Publication No. 14-06-029, or as revised and approved by Ecology); and
- 96 e. Do not contain a priority habitat or a priority area for a priority species identified by the  
97 Washington Department of Fish and Wildlife, do not contain federally listed species or their critical  
98 habitat.

99 Development and activities occurring in wetlands less than one thousand square feet that meet the  
100 above criteria and do not contain federally listed species or their critical habitat are exempt from the  
101 buffer provisions contained in this chapter.

102 2. Emergency activities that threaten public health, safety, welfare, or risk of damage to private  
103 property and that require remedial or preventative action in a time frame too short to allow for  
104 compliance with the requirements of this chapter.

105 Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to  
106 address the emergency; in addition, they must have the least possible impact to the critical area and/or  
107 its buffer. After the emergency, the person or agency undertaking the action shall fully restore and/or

108 mitigate any impacts to the critical area and buffers resulting from the emergency action in accordance  
 109 with the approved critical area report and mitigation plan.

110 3. Single-family residential building permits are exempt from the requirements of this chapter when the  
 111 development proposal involves:

112 a. Structural modification of, addition to or replacement of an existing residential structure or  
 113 construction of a new residential structure where construction and associated disturbance are clearly  
 114 equal to or greater than two hundred ~~ten-twenty five~~ feet from the nearest critical area; or  
 115 b. Structural modification of, addition to, or replacement of an existing residential structure lawfully  
 116 established prior to the effective date of the ordinance codified in this title that does not meet the  
 117 building setback or critical area buffer requirements may be approved only if the modification,  
 118 addition, replacement or related activity is located away from the critical area and does not increase  
 119 the existing footprint within the critical area buffer or building setback by more than one thousand  
 120 square feet.

121 4. Utilities.

122 a. Operation, maintenance or repair of existing structures, infrastructure improvements, existing  
 123 utilities, public or private roads, dikes, levees, or drainage systems, including routine vegetation  
 124 management activities when performed in accordance with approved best management practices, if  
 125 the activity does not increase risk to life or property as a result of the proposed operation,  
 126 maintenance or repair.

127 b. Activities within the Improved Right-of-Way. Replacement, modification, installation or  
 128 construction of utility facilities, lines, pipes, mains, equipment or appurtenances, not including  
 129 substations, when such facilities are located within the improved portion of the public right-of-way or  
 130 a city-authorized private roadway, except those activities that alter a wetland or watercourse, such  
 131 as culverts or bridges, or result in the transport of sediment or increased storm water, subject to the  
 132 following:

133 i. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the  
 134 right-of-way improvement, including disturbed areas; and  
 135 ii. Retention and replanting of native vegetation shall occur wherever possible along the right-  
 136 of-way improvement and resulting disturbance.

137 c. Minor Utility Projects. Utility projects which have minor or short-term impacts to critical areas, as  
 138 determined by the zoning administrator in accordance with the criteria below, and which do not  
 139 significantly impact the functions and values of a critical area(s); provided, that such projects are  
 140 constructed with best management practices and additional restoration measures are provided.  
 141 Minor activities shall not result in the transport of sediment or increased storm water runoff. Such  
 142 allowed minor utility projects shall meet the following criteria:

143 i. There is no practical alternative to the proposed activity with less impacts on critical areas  
 144 and all attempts have been made to first avoid impacts, minimize impacts, and lastly mitigate  
 145 unavoidable impacts;

146 ii. The activity involves the placement of a utility pole, street sign, anchor, vault, or other small  
 147 component of a utility facility;

148 iii. The activity involves disturbance of an area less than seventy-five square feet;

149 iv. The activity will not reduce the existing functions and values of the affected critical areas; and  
 150 v. Unavoidable impacts will be mitigated pursuant to an approved mitigation plan.

151 5. Activities and uses that do not require construction permits, in continuous existence since at least  
 152 November 27, 1990, with no expansion of these activities within the critical area or associated buffer.  
 153 For the purpose of this subsection, "continuous existence" includes cyclical operations normally  
 154 associated with horticulture and agricultural activities.

155 C. Exceptions. The proponent of the activity shall submit a written request for exception from the zoning  
 156 administrator that describes the proposed activity and exception that applies. Depending on the exemption  
 157 requested, the zoning administrator (for administrative decisions) or hearing examiner (for reasonable use  
 158 exceptions) shall review the exception requested to verify that it complies with this chapter and approve or  
 159 deny the exception.

160 1. Public Agency or Utility Exception. If the application if this chapter would prohibit a development  
 161 proposal by a public agency or public utility that is essential to its ability to provide service, the agency or

**Commented [AB1]:** Update based on Ecology comment. This is the widest buffer for wetlands (and wider than any required stream buffer) as long as steps to minimize impacts are taken consistent with Table 21.80.090(D)(3) are implemented. I think that is appropriate to assume that these BMPs would be inherently taken for any redevelopment or modification of an existing SFR house located more than 225 feet from closest adjacent critical area.

We can follow-up more with Ecology if need be.

162 utility may apply for an exception pursuant to this section. After holding a public hearing pursuant to  
163 MMC Chapter 22.84, Permit Processing, the hearing examiner may approve the exception if the hearing  
164 examiner finds that:

- 165 a. There is no other feasible alternative to the proposed development with less impact on the  
166 critical areas, based on the demonstration by the applicant of the following factors:
  - 167 i. The applicant has considered all possible construction techniques based on available  
168 technology that are feasible for the proposed project and eliminated any that would result in  
169 unreasonable risk of impact to the critical area; and
  - 170 ii. The applicant has considered all available alignments within the range of potential  
171 alignments that meet the project purpose and for which operating rights are available.
- 172 b. The proposal minimizes and mitigates unavoidable impacts to critical areas and/or critical areas  
173 buffers. Any decision by the hearing examiner is final unless appealed.

174 2. Reasonable Use Exception. If the application of this chapter would deny all reasonable use of the  
175 property, development may be allowed which is consistent with the general purpose of this chapter and  
176 the public interest; provided, that the hearing examiner, after a public hearing, finds to the extent  
177 consistent with the constitutional rights of the applicant:

- 178 a. This chapter would otherwise deny all reasonable use of the property;
- 179 b. There is no other reasonable use consistent with the underlying zoning of the property that has  
180 less impact on the critical area and/or associated buffer;
- 181 c. The proposed development does not pose an unreasonable threat to the public health, safety or  
182 welfare on or off the property;
- 183 d. Any alteration is the minimal necessary to allow for reasonable use of the property;
- 184 e. The inability of the applicant to derive reasonable use of the property is not the result of actions  
185 by the applicant after the effective date of the ordinance codified in this chapter or its predecessor;  
186 and
- 187 f. The applicant may only apply for a reasonable use exception under this subsection if the  
188 applicant has also applied for a variance pursuant to MMC Chapter 22.66, Variances.

189 3. Innovative Development Design. An applicant may request approval of an innovative design that  
190 addresses buffer treatment in a manner that deviates from the standards for wetland, stream, fish and  
191 wildlife habitat conservation area buffers contained in this chapter under the following circumstances:

- 192 a. Where the applicant is proposing to redevelop a previously developed site on which existing  
193 lawfully established structures or impervious surface encroach into the buffers otherwise required by  
194 this chapter for wetlands, streams, or fish and wildlife habitat conservation areas, the zoning  
195 administrator may reduce the required buffer to the boundary or boundaries of the lawfully  
196 established existing structures or impervious surface on the project property; provided, that the  
197 zoning administrator finds that:
  - 198 i. Within the reduced buffer area, the applicant will use innovative design to improve the  
199 condition of the buffer consistent with the standards for the applicable critical area(s) set forth in  
200 this chapter;
  - 201 ii. In addition, the applicant will provide compensatory mitigation (on site, off site, or through  
202 mitigation banks) that provides functions and values equivalent to those that would have been  
203 provided had the project conformed to the standard buffer set forth in this chapter; and
  - 204 iii. The innovative design will not be materially detrimental to the public health, safety or welfare  
205 or injurious to other properties or improvements located outside of the subject property.
- 206 b. The applicant shall prepare a critical areas study consistent with MMC 22.80.070 demonstrating  
207 the innovative development design complies with the standards in this subsection. All applicants for  
208 innovative designs are encouraged to consider measures prescribed in guidance documents, such  
209 as watershed conservation plans or other similar conservation plans, and low impact storm water  
210 management strategies that address wetlands, fish and wildlife habitat conservation areas or buffer  
211 protection consistent with this section.
- 212 c. Where an applicant proposes to reduce the standard wetland, stream, fish and wildlife habitat  
213 conservation area buffers set forth in this chapter using innovative development design under this  
214 section, the other provisions of this chapter, including provisions regarding buffer reductions or  
215 modifications, shall not apply.

216 D. Activities Allowed in Wetlands. The activities listed below are allowed in wetlands. These activities do  
217 not require submission of a critical area report, except where such activities result in a loss of the functions  
218 and values of a wetland or wetland buffer. These activities include:

- 219 1. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its  
220 rules and regulations, WAC 222-12-030, where state law specifically exempts local authority, except  
221 those developments requiring local approval for Class 4 – general forest practice permits (conversions)  
222 as defined in Chapter 76.09 RCW and Chapter 222-12 WAC.
- 223 2. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does  
224 not entail changing the structure or functions of the existing wetland.
- 225 3. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops  
226 and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or  
227 alteration of the wetland by changing existing topography, water conditions, or water sources.
- 228 4. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely  
229 outside of the wetland buffer; provided, that the drilling does not interrupt the groundwater connection to  
230 the wetland or percolation of surface water down through the soil column. Specific studies by a  
231 hydrologist are necessary to determine whether the groundwater connection to the wetland or  
232 percolation of surface water down through the soil column will be disturbed.
- 233 5. Enhancement of a wetland through the removal of nonnative invasive plant species. Removal of  
234 invasive plant species shall be restricted to hand removal unless permits from the appropriate regulatory  
235 agencies have been obtained for approved biological or chemical treatments. All removed plant material  
236 shall be taken away from the site and appropriately disposed of. Plants that appear on the Washington  
237 State Noxious Weed Control Board list of noxious weeds must be handled and disposed of according to  
238 a noxious weed control plan appropriate to that species. Revegetation with appropriate native species at  
239 natural densities is allowed in conjunction with removal of invasive plant species.
- 240 6. Educational and scientific research activities.
- 241 7. Normal and routine maintenance and repair of any existing public or private facilities within an  
242 existing right-of-way; provided, that the maintenance or repair does not expand the footprint of the  
243 facility or right-of-way.
- 244 8. Storm water management facilities. A wetland or its buffer can be physically or hydrologically altered  
245 to meet the requirements of an LID, runoff treatment or flow control BMP if all of the following criteria are  
246 met:
  - 247 a. The wetland is classified as a Category IV or a Category III wetland with a habitat score of three  
248 to ~~four~~ five points; and
  - 249 b. There will be “no net loss” of functions and values of the wetland; and
  - 250 c. The wetland does not contain a breeding population of any native amphibian species; and
  - 251 d. The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart  
252 4 and questions 2, 3, 4 of Chart 5 in the “Guide for Selecting Mitigation Sites Using a Watershed  
253 Approach,” or the wetland is part of a priority restoration plan that achieves restoration goals  
254 identified in a shoreline master program or other local or regional watershed plan; and
  - 255 e. The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing;  
256 and
  - 257 f. All regulations regarding storm water and wetland management are followed, including but not  
258 limited to local and state wetland and storm water codes, manuals, and permits; and
  - 259 g. Modifications that alter the structure of a wetland or its soils will require permits. Existing  
260 functions and values that are lost would have to be compensated/replaced.
- 261 9. Sites Subject to Development Agreement. Any proposed fill or alteration of a wetland on a site  
262 subject to a development agreement may be approved through a conditional use permit. In addition to  
263 the conditional use criteria in MMC Chapter 22.64, Conditional Use Permits, the hearing examiner shall  
264 consider the following criteria:
  - 265 a. Mitigation is provided that locates and/or restores a compensatory wetland area on the same  
266 site, and the compensatory wetland area provides a higher level of wetland function than existed  
267 prior to the fill or alteration; and
  - 268 b. Mitigation establishes buffers with dense, native vegetation to protect the wetland functions and  
269 values; and

- 270 c. Assessment is provided demonstrating hydrology will support the created or reestablished  
271 wetland; and  
272 d. Alterations adhere to applicable city, state, and federal requirements and permitting including,  
273 but not limited to, U.S. Army Corps of Engineers and the Department of Ecology.  
274 e. A ten-year monitoring period is established, in accordance with MMC 22.80.080, Protection and  
275 Mitigation Measures, to ensure mitigation meets the design performance standards established in  
276 the approved mitigation plan.  
277

278 **22.80.060 Nonconforming Uses.**

- 279 A. Purpose. The purpose of this section establishes the terms and conditions for continuing nonconforming  
280 uses, structures and lots which are lawfully established prior to the effective date of the ordinance codified  
281 in this title.  
282 B. Standards.  
283 1. A legally established nonconforming lot, use or structure shall be deemed a legal nonconforming lot,  
284 use or structure and may be continued, transferred or conveyed and/or used as if conforming.  
285 2. The burden of establishing that any nonconforming lot, use or structure lawfully existed as of the  
286 effective date of the ordinance codified in this chapter shall, in all cases, rest with the owner and not with  
287 the city.  
288 C. Maintenance and Repair of Nonconforming Structures. Normal maintenance and incidental repair of  
289 legal nonconforming structures shall be permitted; provided, that it complies with all the sections of this  
290 chapter and other pertinent chapters of this code.  
291 D. Reconstruction. Reconstruction, restoration or repair of a legal nonconforming structure damaged by  
292 fire, flood, earthquake or other disasters shall be permitted; provided, that such reconstruction shall not  
293 result in the expansion of the nonconforming structure.  
294 E. Expansion of Nonconforming Use or Structure. No legal nonconforming use or structure may be  
295 expanded, enlarged, or extended in any way (including extension of hours of operation) unless such  
296 modification is in full compliance with this chapter or the terms and conditions of approved permits pursuant  
297 to this chapter.  
298 F. Discontinuance of Nonconforming Use. All legal nonconforming uses shall be encouraged to convert to  
299 a conforming use whenever possible. Conformance shall be required when:  
300 1. The use has changed;  
301 2. The structure(s) in which the use is conducted has moved; or  
302 3. The use is terminated or discontinued for more than two years, or the structure(s) which houses the  
303 use is vacated for more than two years.  
304

305 **22.80.070 Critical Areas Studies.**

- 306 A. Studies Required. When sufficient information to evaluate a proposal is not available, the zoning  
307 administrator or their designee shall notify the applicant that a critical areas report is required. The city may  
308 hire an independent qualified professional to verify that a critical areas report is necessary and may be used  
309 to review the subsequent report.  
310 Critical areas reports shall be written by a qualified professional, as defined in the definitions section of this  
311 chapter. A critical areas report shall include a site analysis, a discussion of potential impacts, and specific  
312 mitigation measures designed to mitigate potential unavoidable impacts. A monitoring program may be  
313 required to evaluate the effectiveness of mitigating measures. These studies may be part of an expanded  
314 environmental checklist or included in an environmental impact statement.  
315 B. Timing and Use of Studies. When an applicant submits an application for any development proposal, it  
316 shall indicate whether any critical areas or buffers are located on or adjacent to the site. If a critical area  
317 report is required, the city may retain consultants, at the applicant's expense, to assist in review of studies  
318 that are outside the range of staff expertise. The presence of critical areas may require additional time for  
319 review.  
320 C. General Critical Areas Report Requirements. A critical areas report shall have three components: (a) a  
321 site analysis, (b) an impact analysis, and (c) proposed mitigation measures. More or less detail may be  
322 required for each component depending on the size of the project, severity, and potential impacts. The

323 zoning administrator may waive the requirement of any component when adequate information is otherwise  
324 available. All studies shall contain the following information unless it is already available in the permit  
325 application:

- 326 1. Map of the project area at a one-to-twenty or larger scale including:
  - 327 a. Reference streets and property lines;
  - 328 b. Existing and proposed easements, rights-of-way, and structures;
  - 329 c. Contour intervals, as determined by the zoning administrator;
  - 330 d. Hydrology. Show surface water features both on and adjacent to the site; show any water  
331 movement into, through, and off the project area; show stream and wetlands classifications; show  
332 seeps, springs, and saturated soil zones; and label wetlands not found on the city inventory maps as  
333 uninventoried; and
  - 334 e. Location of buffer and building setback lines (if required or proposed).
- 335 2. Written report detailing:
  - 336 a. How, when, and by whom the report was performed (including methodology and techniques);
  - 337 b. Weather conditions during and prior to any field studies if relevant to conclusions and  
338 recommendations;
  - 339 c. Description of the project site and its existing condition;
  - 340 d. The total acreage of the site in critical area(s) and associated buffers;
  - 341 e. The proposed action and potential environmental impact of the proposed project to the critical  
342 area(s); and
  - 343 f. The mitigation measures proposed to avoid or lessen the project impacts (during construction  
344 and permanently). When alteration to the critical area or its buffer is proposed, include a mitigation  
345 plan as specified by this chapter.
- 346 D. Additional Wetland Report Requirements. In addition, for wetlands, reports shall include the following:
  - 347 1. On the map:
    - 348 a. The edge of the wetland as flagged and surveyed in the field using the approved federal wetland  
349 delineation manual and applicable regional supplements, as required by RCW 36.70A.175;
    - 350 b. The edge of the one-hundred-year floodplain, if appropriate;
    - 351 c. The location of any existing or proposed utility easements, rights-of-way, and trail corridors;
    - 352 d. The location of any proposed wetland area(s) to be created through mitigation measures; and
    - 353 e. The location of any proposed wetland alteration or fill.
  - 354 2. In the report:
    - 355 a. Description of the wetland by classification and general condition of wetland;
    - 356 b. Description of vegetation species and community types present in the wetland and surrounding  
357 buffer;
    - 358 c. Description of soil types within the wetland and the surrounding buffer using the USDA Soil  
359 Conservation Service soil classification system;
    - 360 d. Description of hydrologic regime and findings;
    - 361 e. Description of habitat features present and determination of actual use of the wetland by any  
362 endangered, threatened, rare, sensitive, or unique species of plants or wildlife as listed by the  
363 federal government or state of Washington;
    - 364 f. Description of existing wetland and buffer functions and values;
    - 365 g. Description of any proposed alteration to the wetland or its buffer including, but not limited to,  
366 filling, dredging, modification for storm water detention, clearing, grading, restoring, enhancing,  
367 grazing or other physical activities that change the existing vegetation, hydrology, soils or habitat;
    - 368 h. If applicable, description of potential impacts to wetland functions and values and description of  
369 any proposed mitigation measures; and
    - 370 i. Description of local, state, and federal regulations and permit requirements.
- 371 E. Additional Stream Report Requirements. In addition, for streams (including drainage ditches), reports  
372 shall include the following information:
  - 373 1. On the map:
    - 374 a. The location of the ordinary high water mark;
    - 375 b. The toe of any slope twenty-five percent or greater within twenty-five feet of the ordinary high  
376 water mark;

- 377 c. The location of any proposed or existing stream crossing, utility easements, rights-of-way and  
378 trails; and  
379 d. The edge of the existing one-hundred-year floodplain and, if applicable, the edge of the  
380 floodway.
- 381 2. In the report:
- 382 a. Characterization of riparian (streamside) vegetation species, composition, and habitat function;  
383 b. Description of the soil types adjacent to and underlying the stream, using the Soil Conservation  
384 Service soil classification system;  
385 c. Determination of the presence or absence of fish, and reference sources; and  
386 d. When stream alteration is proposed, include stream width and flow, stability of the channel, type  
387 of substratum, discussions of infiltration capacity and biofiltration as compared to the stream prior to  
388 alteration, presence of hydrologically linked wetlands, analysis of fish and wildlife habitat, and  
389 proposed floodplain limits.
- 390 F. Additional Flood Hazard Report Requirements. In addition, for areas in flood hazards, reports shall  
391 include the following information:
- 392 1. On the map:
- 393 a. The location of all floodplains in the development;  
394 b. The location of the floodway where it has been delineated on the most recent Flood Insurance  
395 Rate Map (FIRM);  
396 c. Where basin plans have been completed and adopted, the location of the floodplain and  
397 floodways shall be based upon the hydrologic and hydraulic analysis;  
398 d. Identification of all proposed structures and grading within the floodplain.
- 399 2. In the report:
- 400 a. Identify how the boundaries of the floodways and floodplain were determined;  
401 b. Record the elevation of National Geodetic Vertical Datum (NGVD) of the lowest floor of all new  
402 or substantially improved structures proposed in the existing floodplain.
- 403 G. Additional Geologically Hazardous Area Report Requirements. For geologically hazardous areas,  
404 reports shall include the following information:
- 405 1. On the map:
- 406 a. All geologically hazardous areas within or adjacent to the project area or that have potential to be  
407 affected by the proposal;  
408 b. The top and toe of slope (Note: These should be located and flagged in the field subject to city  
409 staff review);  
410 c. The location of any existing or proposed trails or utility corridors; and  
411 d. All drainage plans for discharge of storm water runoff from developed areas.
- 412 2. In the report:
- 413 a. A geological description of the site;  
414 b. A discussion of any evidence of existing instability, significant erosion or seepage on the slope;  
415 c. A discussion of the depth of weathered or loosened soil on the site and the nature of the  
416 weathered and underlying basement soils;  
417 d. An estimate of load capacity, including surface water and groundwater conditions, public and  
418 private sewage disposal system, fill and excavations, and all structural development;  
419 e. Recommendations for building limitations, structural foundations, and an estimate of foundation  
420 settlement;  
421 f. A complete discussion of the potential impacts of seismic activity on the site;  
422 g. Recommendations for management of storm water for any development above the top of slope;  
423 h. A description of the nature and extent of any colluvium or slope debris near the toe of slope in  
424 the vicinity of any proposed development; and  
425 i. Recommendations for appropriate building setbacks, grading restrictions, and vegetation  
426 management and erosion control for any proposed development in the vicinity of the geologically  
427 hazardous areas.
- 428 H. Additional Fish and Wildlife Habitat Conservation Habitat Report Requirements.
- 429 1. In the Report. An assessment of habitats including the following site and proposal related  
430 information:

- a. 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 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 species management recommendations, including the state Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitat located on or adjacent to the project area;
- d. A detailed discussion of the potential impacts on habitat by the project, including potential impacts to water quality;
- e. A discussion of measures, including avoidance, minimization, and lastly mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with the mitigation sequencing; and
- f. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.

**22.80.080 Protection and Mitigation Measures.**

The city of Monroe will use the following methods and mechanisms to accomplish the purposes of the critical areas regulations. This section shall be applied to all approved development applications and alterations when action is taken to implement the proposed action.

A. Native Growth Protection Easements. A native growth protection easement (NGPE) is an easement granted to the city for the protection of a critical area and/or its associated buffer. NGPEs shall be required as specified in these rules and shall be recorded on all subdivisions, short subdivisions, and final development permits and all documents of title and with the county recorder at the applicant's expense. The required language is as follows:

Dedication of a Native Growth Protection Easement (NGPE) conveys to the public a beneficial interest in the land within the easement. This interest includes the preservation of existing vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, visual and aural buffering, and protection of plant and animal habitat. The NGPE imposes upon all present and future owners and occupiers of land subject to the easement the obligation, enforceable on behalf of the public of the city of Monroe, to leave undisturbed all trees and other vegetation within the easement. The vegetation in the easement may not be cut, pruned, covered by fill, removed, or damaged without express permission from the city of Monroe, which permission must be obtained in writing.

Before beginning and during the course of any grading, building construction or other development activity on a lot or development site subject to the NGPE, the common boundary between the easement and the area of development activity must be fenced or otherwise marked to the satisfaction of the city of Monroe.

B. Critical Area Tracts. Critical area tracts are legally created nonbuilding lots containing critical areas and their buffers that shall remain undeveloped pursuant to the critical areas regulations. Separate critical area tracts are an integral part of the lot in which they are created; are not intended for sale, lease or transfer; and shall be incorporated in the area of the parent lot for purposes of subdivision and method of allocation and minimum lot size. The following development proposals shall identify such areas as separate tracts:

- 1. Subdivisions
- 2. Short subdivisions

Responsibility for maintaining tracts shall be held by a homeowners association, adjacent lot owners, the permit applicant or designee, or other appropriate entity as approved by the city of Monroe.

The following note shall appear on the face of all subdivisions and short subdivisions and shall be recorded on the title for all affected lots:

NOTE: All lots adjoining separate tracts identified as Native Growth Protection Easements are jointly and severally responsible for the maintenance and protection of the tracts. Maintenance includes

483 ensuring that no alteration occurs within the separate tracts and that vegetation remains undisturbed  
484 unless the express written permission of the city of Monroe has been received.

485 C. Building Setback Line (BSBL). Unless otherwise specified, a minimum BSBL of ten feet is required from  
486 the edge of any separate tract, buffer or NGPE, whichever is greatest.

487 D. Marking and/or Fencing.

488 1. Temporary Markers. The outer perimeter of the wetland or buffer and the limits of these areas to be  
489 disturbed pursuant to an approved permit or authorization shall be marked in the field so no  
490 unauthorized intrusion will occur and is subject to inspection by the zoning administrator or their  
491 designee prior to the commencement of permitted activities. This temporary marking shall be maintained  
492 throughout construction and shall not be removed until directed by the zoning administrator, or until  
493 permanent signs and/or fencing, if required, are in place.

494 2. Permanent Marking and/or Fencing. Following the implementation of an approved development plan  
495 or alteration, the outer perimeter of the critical area or buffer that is not disturbed shall be permanently  
496 identified. This identification shall include permanent wood or metal signs on treated wood or metal  
497 posts. Signs shall be worded as follows:

498 Protection of this natural area is in your care.

499 Alteration or disturbance is prohibited. Please call the city of Monroe for more information.

500 The city shall approve sign locations during review of the development proposal. Along residential  
501 boundaries, the signs shall be at least four by six inches in size and spaced one per lot or every one  
502 hundred fifty feet for lots whose boundaries exceed one hundred fifty feet. Along parks and common  
503 spaces, roads and trails, at road endings and crossings, and other areas where public access to the critical  
504 area is allowed, the sign shall be a minimum of eighteen by twenty-four inches in size and spaced one  
505 every ~~one hundred-fifty feet~~.

Commented [AB2]: I think this is fine for residential lots. Multiple within an individual residential lot that is less than 150 feet wide seems overkill

506 Domestic grazing animals shall be excluded from stream, wetlands, and associated buffers by permanent  
507 fencing when necessary unless otherwise approved by the city.

508 The fencing may provide limited access to the stream or wetland for stock watering purposes, but shall  
509 minimize bank disturbance.

510 The city may require permanent fencing where there is a substantial likelihood of the presence of domestic  
511 grazing animals with the development proposal. The city shall also require such fencing when, subsequent  
512 to approval of the development proposal, domestic grazing animals are in fact introduced. The city may use  
513 any appropriate enforcement actions including, but not limited to, fines, abatement, or permit denial to  
514 ensure compliance.

515 E. Monitoring. The city will require monitoring in development proposals where alteration of critical areas or  
516 their buffers are approved. Such monitoring shall be an element of the required mitigation plan and shall  
517 document and track impacts of development on the functions and values of critical areas, and the success  
518 and failure of mitigation requirements. Monitoring may include, but is not limited to:

- 519 1. Establishing vegetation transects or plots to track changes in plant species composition over time;
- 520 2. Using aerial or other photography to evaluate vegetation community response;
- 521 3. Sampling surface waters and groundwaters to determine pollutant loading;
- 522 4. Measuring base flow rates and storm water runoff to model and evaluate water quantity predictions;
- 523 5. Measuring sedimentation rates; and
- 524 6. Sampling fish and wildlife populations to determine habitat utilization, species abundance, and  
525 diversity.

526 The property owner will be required to submit monitoring data and reports to the city on an annual basis or  
527 other schedule as required by the zoning administrator. Monitoring shall continue for a period of five years  
528 or for a period necessary to establish that the mitigation performance standards have been met.

529 When monitoring reveals a significant deviation from predicted impacts or a failure of mitigation measures,  
530 the applicant shall be responsible for appropriate corrective action. Contingency plans developed as part of  
531 the original mitigation plan shall apply, but may be modified to address a specific deviation or failure.

Commented [AB3]: Updated per Ecology comment. City could choose to 'meet in the middle', (one every 75 feet or every 80 feet) if you feel that every 50 feet is excessive

532 Contingency plan measures shall be subject to the monitoring requirement to the same extent as the  
533 original mitigation measures.

534 As a condition of approval for any project for which monitoring is required pursuant to this section, the  
535 applicant shall be required to record the monitoring requirements on a form approved by the city of Monroe  
536 so that subsequent purchasers of the property subject to the monitoring requirements are bound by and  
537 aware of the requirements.

538 F. Notice on Title.

539 1. In order to inform subsequent purchasers of real property of the existence of critical areas, the  
540 owner of any real property containing a critical area or buffer on which a development proposal is  
541 submitted shall file a notice with the recordings division of Snohomish County. The notice shall state the  
542 presence of the critical area or buffer on the property, of the application of this title to the property, and  
543 the fact that limitations on actions in or affecting the critical area or buffer may exist. The notice shall run  
544 with the property.

545 2. This notice on title shall not be required for a development proposal by a public agency or public or  
546 private utility:

- 547 a. Within a recorded easement or right-of-way;
- 548 b. Where the agency or utility has been adjudicated the right to an easement or right-of-way; or
- 549 c. On the site of a permanent public facility.

550 3. The applicant shall submit proof that the notice has been filed for public record before the city of  
551 Monroe approves any development proposal for the property or, in the case of subdivisions and short  
552 subdivisions, at or before recording.

553 G. Fees. The applicant is responsible for the initiation, preparation, submission, and expense of all required  
554 reports, assessment(s), studies, plans, reconnaissance(s), peer review by qualified consultants, and other  
555 work prepared in support of, or necessary for, the city of Monroe critical areas review processing.

556 H. Performance Standards. Subdivisions and short subdivisions of land in critical areas and associated  
557 buffers are subject to the following:

- 558 1. Land that is wholly within a critical area or associated buffer may not be subdivided.
- 559 2. Land that is partially within a critical area or associated buffer area may be subdivided; provided,  
560 that an accessible and contiguous portion of each new lot is:
  - 561 a. Located outside the critical area and buffer; and
  - 562 b. Large enough to accommodate the intended use.
- 563 3. Accessory roads and utilities serving the proposed subdivision may be permitted within the critical  
564 area and associated buffer only if the zoning administrator determines that no other feasible alternative  
565 exists and when consistent with this chapter.

566 I. Limited Density Transfer – Density Credit of Critical Areas.

- 567 1. An owner of property containing a critical area may be permitted to transfer the density attributed to  
568 the critical area to another, not containing a critical area(s) or its buffer, portion of the same site or  
569 property, subject to the limitations of this section.
- 570 2. Up to one hundred percent of the density that could be achieved on the critical area and buffer  
571 portion of the site can be transferred to a portion of the site not containing a critical area, subject to:
  - 572 a. The density limitation of the underlying zoning classification;
  - 573 b. The minimum lot size of the underlying zoning classification may be reduced by thirty percent in  
574 order to accommodate the transfer in densities;
  - 575 c. All other applicable standards established in Title 22 MMC, including, but not limited to, zoning  
576 lot area, lot coverage, and setback requirements, shall be met; and
  - 577 d. The area to which density is transferred shall not be constrained by other critical areas  
578 regulation.

579  
580 **22.80.090 Wetland Development Standards.**

581 A. General Standards. Activities and uses shall be prohibited from wetlands and wetland buffers, except as  
582 provided by this chapter. The following activities may only be permitted in a wetland or wetland buffer if the  
583 applicant can demonstrate that the activity will result in no net loss of the functions and values of the  
584 wetland and other critical areas:

- 585 1. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except as  
586 provided in the public agency and utility exception, reasonable use exception, and variance sections of  
587 this chapter.
- 588 2. Category II and III Wetlands. The following standards shall apply to Category II and III wetlands:  
589 a. Water-dependent activities as provided for under the city's shoreline master program may be  
590 allowed where there are no practicable alternatives that would have a less adverse impact on the  
591 wetland and other critical areas.  
592 b. Where non-water-dependent activities are proposed, it shall be presumed that alternative  
593 locations are available, and activities and uses shall be prohibited, unless the applicant  
594 demonstrates that:  
595 i. The basic project purpose cannot reasonably be accommodated on another site in the  
596 general region and successfully avoid, or result in less adverse impacts on, a wetland or its  
597 buffer;  
598 ii. There are no feasible alternative designs of the project as proposed that would avoid, or  
599 result in less of an adverse impact on, a wetland or its buffer, such as a reduction in the size,  
600 scope, configuration, or density of the project.
- 601 3. Category IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be  
602 permitted in Category IV wetlands and associated buffers in accordance with an approved critical areas  
603 report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will  
604 accomplish the applicant's objective.
- 605 4. Property Access. Any wetland may be altered with the least possible impact and to the minimum  
606 extent necessary to gain access to developable property when no other alternative access exists.  
607 Alteration proposals shall be subject to city review and shall require compensation pursuant to a  
608 mitigation plan (see MMC 22.80.080, Protection and Mitigation Measures).
- 609 5. Storm Water Management. Storm water management facilities are not allowed in wetlands. Storm  
610 water management facilities, limited to storm water dispersion outfall and bioswales, may be allowed  
611 within the outer twenty-five percent of the buffer of Category III and IV wetlands only; provided, that:  
612 a. No other location is feasible; and  
613 b. The location of such facilities will not degrade the functions and values of the wetland.
- 614 6. Trails. Public and private trails may be allowed within all buffers where it can be demonstrated in a  
615 critical areas report that the wetland and wetland buffer functions and values will not be degraded by  
616 trail construction or use. Trail planning, construction, and maintenance shall adhere to the following  
617 criteria:  
618 a. Trail alignment shall follow a path beyond a distance from the wetland edge equal to seventy-five  
619 percent of the buffer width except as needed to access viewing platforms. Trails may be placed on  
620 existing levees or railroad grades within these limits;  
621 b. Trails shall be constructed of pervious materials. The trail surface shall meet all other  
622 requirements, including water quality standards set forth in the storm water manual adopted in MMC  
623 15.01.025;  
624 c. Trail alignment shall avoid trees in excess of six inches in diameter of any tree trunk at a height  
625 of four and one-half feet above the ground on the upslope side of the tree. Unavoidable impacts to  
626 trees shall be mitigated at a three to one replacement ratio;  
627 d. Trail construction and maintenance shall follow the U.S. Forest Service Trails Management  
628 Handbook (FSH 2309.18, June 1987) and Standard Specifications for Construction of Trails (EM-  
629 7720-102, June 1984 or as revised);  
630 e. Access trails to viewing platforms within the wetland may be provided. Trail access and platforms  
631 shall be aligned and constructed to minimize disturbance to valuable functions of the wetland or its  
632 buffer and still provide enjoyment of the resource;  
633 f. Buffer widths shall be increased, where possible, equal to the width of the trail corridor, including  
634 disturbed areas; and  
635 g. Equestrian trails shall provide measures to assure that runoff from the trail does not directly  
636 discharge to the wetland.
- 637 7. Utilities. Public and private utility corridors may be allowed within wetland buffers for Category II, III,  
638 and IV wetlands when no lesser impacting alternative alignment is feasible, and wetland and wetland

639 buffer functions and values will not be degraded. Utilities, whenever possible, shall be constructed in  
640 existing, improved roads, drivable surface or shoulder, subject to compliance with road and  
641 maintenance BMPs, or within an existing utility corridor. Otherwise, corridor alignment, construction,  
642 restoration and maintenance shall adhere to the following criteria:  
643 a. Corridor alignment shall follow a path beyond a distance from the wetland edge equal to  
644 seventy-five percent of the buffer width, except when crossing a Category IV wetland and its buffer;  
645 b. Corridor construction and maintenance shall maintain and protect the hydrologic and hydraulic  
646 functions of the wetland and the buffer;  
647 c. Corridors shall be fully revegetated with appropriate native vegetation upon completion of  
648 construction; and  
649 d. Utilities requiring maintenance roads shall be prohibited in wetland buffers unless the following  
650 criteria are met:  
651 i. There are no lesser impacting alternatives;  
652 ii. Any required maintenance roads shall be no greater than fifteen feet wide. Roads shall  
653 closely approximate the location of the utility to minimize disturbances; and  
654 iii. The maintenance road shall be constructed of pervious materials and designed to maintain  
655 and protect the hydrologic functions of the wetland and its buffer.

656 B. Best Available Science. Any approval of alterations of impacts to a wetland or its buffer shall be  
657 supported by the best available science.

658 C. Native Growth Protection Easement/Critical Area Tract. As part of the implementation of approved  
659 development applications and alterations, wetlands and their buffers that remain undeveloped pursuant to  
660 the critical areas regulations, in accordance with MMC 22.80.080, Protection and Mitigation Measures, shall  
661 be designated as native growth protection easements (NGPE). Any wetland and its associated buffer  
662 created as compensation for approved alterations shall also be designated as an NGPE. When the subject  
663 development is a formal subdivision or short subdivision, wetlands and their buffers shall be placed in a  
664 critical areas tract instead of an NGPE, as described in MMC 22.80.080, Protection and Mitigation  
665 Measures.

666 D. Buffer Requirements. The following buffer widths have been established in accordance with the best  
667 available science. They are based on the category of wetland and the habitat score as determined by a  
668 qualified wetland professional using the Washington State Wetland Rating System for Western Washington:  
669 2014 Update (Ecology Publication No. 14-06-029, or as revised and approved by Ecology). The adjacent  
670 land use intensity is assumed to be high.

671 Wetland buffers shall not include areas that are functionally and effectively disconnected from the wetland  
672 by a paved road or other substantially developed surface. This includes parking lots, walkways, and lawns  
673 that are of sufficient width and characteristic use such that buffer functions are not provided.

674 1. For wetlands that score ~~five-six~~ points or more for habitat function, the buffers in Table  
675 22.80.090(D)(1) can be used if both of the following criteria are met:

676 a. A relatively undisturbed, vegetated corridor at least one hundred feet wide is protected between  
677 the wetland and any other priority habitats as defined by the Washington State Department of Fish  
678 and Wildlife. The latest definitions of priority habitats and their locations are available on the WDFW  
679 website at:

680 <http://wdfw.wa.gov/hab/phshabs.htm>.

681 The corridor must be protected for the entire distance between the wetland and the priority habitat  
682 by some type of legal protection such as a conservation easement.

683 Presence or absence of a nearby habitat must be confirmed by a qualified biologist. If no option for  
684 providing a corridor is available, Table Table 22.80.090(D)(1) may be used with the required  
685 measures in Table 22.80.090(D)(2) alone.

686 b. The measures in Table 22.80.090(D)(2) are implemented, where applicable, to minimize the  
687 impacts of the adjacent land uses.

688 2. For wetlands that score three to ~~four-five~~ habitat points, only the measures in Table 22.80.090(D)(2)  
689 are required for the use of Table 22.80.090(D)(1).

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3. If an applicant chooses not to apply the mitigation measures in Table 22.80.090(D)(2), or is unable to provide a protected corridor where available, then Table 22.80.090(D)(3) must be used.
4. The buffer widths in Tables 22.80.090(D)(1) and 22.80.090(D)(3) assume that the buffer is vegetated with a native plant community appropriate for the ecoregion. If the existing buffer is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the buffer should either be planted to create the appropriate plant community or the buffer should be widened to ensure that adequate functions of the buffer are provided.

**Table 22.80.090(D)(1):  
Wetland Buffer Requirements for Western Washington  
if Table 22.80.090(D)(2) Is Implemented and Corridor Provided**

Wetland Category	Buffer width (in feet) based on habitat score		
	3 – <del>5</del>	<del>56-7</del>	8 – 9
Category I: Based on total score	75	<del>11005</del>	225
Category I: Bogs and wetlands of high conservation value	190		225
Category I: Forested	75	<del>11005</del>	225
Category II: Based on score	75	<del>11005</del>	225
Category III (all)	60	<del>11005</del>	225
Category IV (all)	40		

**Table 22.80.090(D)(2):  
Required Measures to Minimize Impacts to Wetlands  
(measures are required if applicable to a specific proposal)**

Disturbance	Required Measures to Minimize Impacts
Lights	<ul style="list-style-type: none"> <li>• Direct lights away from wetland</li> </ul>
Noise	<ul style="list-style-type: none"> <li>• Locate activity that generates noise away from wetland</li> <li>• If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</li> <li>• For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10-ft. heavily vegetated buffer strip immediately adjacent to the outer wetland buffer</li> </ul>
Toxic runoff	<ul style="list-style-type: none"> <li>• Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</li> <li>• Establish covenants limiting use of pesticides within 150 ft. of wetland</li> <li>• Apply integrated pest management</li> </ul>
Storm water runoff	<ul style="list-style-type: none"> <li>• Retrofit storm water detention and treatment for roads and existing adjacent development</li> <li>• Prevent channelized flow from lawns that directly enters the buffer</li> <li>• Use low impact development techniques (for more information refer to Chapter 15.01 MMC)</li> </ul>
Change in water regime	<ul style="list-style-type: none"> <li>• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</li> </ul>
Pets and human disturbance	<ul style="list-style-type: none"> <li>• Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</li> <li>• Place wetland and its buffer in a separate tract or protect with a conservation easement</li> </ul>

698

Dust	• Use best management practices to control dust
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**Table 22.80.090(D)(3):  
Wetland Buffer Requirements for Western Washington  
if Table 22.80.090(D)(2) Is Not Implemented or Corridor Not Provided**

Wetland Category	Buffer width (in feet) based on habitat score		
	3 – <del>54</del>	<del>6 - 75</del>	8 – 9
Category I: Based on total score	100	<del>1540</del>	300
Category I: Bogs and wetlands of high conservation value	250		300
Category I: Forested	100	<del>1540</del>	300
Category II: Based on score	100	<del>1540</del>	300
Category III (all)	80	<del>1540</del>	300
Category IV (all)	50		

701

702 E. Additional Buffers. The city may require increased buffer sizes as necessary to protect wetlands when  
703 either the wetland is particularly sensitive to disturbance or the development poses unusual impacts.  
704 Examples of circumstances that may require buffers beyond minimum requirements include, but are not  
705 limited to:

- 706 1. Unclassified uses;  
707 2. The wetland is in a critical drainage basin;  
708 3. The wetland is a critical fish habitat for spawning or rearing as determined by the Washington  
709 Department of Fish and Wildlife;  
710 4. The wetland serves an important groundwater recharge area as determined by a groundwater  
711 management plan;  
712 5. The wetland acts as habitat for endangered, threatened, rare, sensitive, or monitor species;  
713 6. The land adjacent to the wetland and its associated buffer and included in the development proposal  
714 is classified as an erosion hazard area; or  
715 7. A trail or utility corridor in excess of ten percent of the buffer width is proposed for inclusion in the  
716 buffer.

717 F. Buffer Averaging. The city will consider the allowance of wetland buffer averaging only when the buffer  
718 area width after averaging will not adversely impact the critical area and/or buffer functions and values. At a  
719 minimum, any proposed buffer averaging must also meet the following criteria:

- 720 1. The buffer area after averaging is no less than that which would be contained within the standard  
721 buffer; and  
722 2. The buffer width shall not be reduced by more than twenty-five percent at any one point as a result  
723 of the buffer averaging.

724 G. Additional Wetland Mitigation Requirements. No net loss of wetland functions and values shall occur as  
725 a result of the overall project. If a wetland alteration is allowed, then the associated impacts will be  
726 considered unavoidable and the following mitigation measures to minimize and reduce wetland impacts  
727 shall be required, in addition to the requirements in MMC 22.80.080, Protection and Mitigation Measures.

- 728 1. Restoration/rehabilitation is required when a wetland (or stream) or its buffers has been altered on  
729 the site in violation of city regulations prior to development approval and as a consequence its functions  
730 and values have been degraded. Restoration is also required when the alteration occurs in violation of  
731 city regulations during the construction of an approved development proposal. At a minimum, all  
732 impacted areas shall be restored to their previous condition pursuant to an approved mitigation plan.

- 733 2. Restoration/rehabilitation is required when a wetland (or stream) or its buffers will be temporarily  
 734 altered during the construction of an approved development proposal. At a minimum, all impacted areas  
 735 shall be restored to their previous condition pursuant to an approved mitigation plan.  
 736 3. Compensation. The overall aim of compensation is no net loss of wetland and/or buffer functions on  
 737 a development site. Compensation includes replacement or enhancement of wetlands and/or buffer  
 738 (stream) depending on the scope of the approved alteration and what is needed to maintain or improve  
 739 wetland and/or buffer functions. Compensation for approved wetland and/or buffer alterations shall meet  
 740 the following minimum performance standards and shall occur pursuant to an approved mitigation plan.  
 741 4. Mitigation shall achieve equivalent or greater biological functions. Mitigation plans shall be  
 742 consistent with the State Department of Ecology Wetland Mitigation in Washington State, Parts 1 and 2  
 743 (Publications No. 06-06-011a and b, 2006), as revised.
- 744 a. Preference of Mitigation Actions. Mitigation actions that require compensation shall occur in the  
 745 following order of preference:
    - 746 i. Restoring wetlands on upland sites that were formerly wetlands.
    - 747 ii. Creating wetlands on disturbed upland sites such as those with vegetation cover consisting  
 748 primarily of exotic introduced species.
    - 749 iii. Enhancing significantly degraded wetlands only after a minimum one-to-one replacement  
 750 ratio has been met.
  - 751 b. On Site and In-Kind. Unless otherwise approved, all wetland impacts shall be compensated for  
 752 through restoration or creation of replacement wetlands that are in-kind, on site, and of similar or  
 753 better wetland category. Mitigation shall be timed prior to or concurrent with the approved alteration  
 754 and shall have a high probability of success. The following ratios shall apply to wetland restoration  
 755 and creation for mitigation:  
 756

**Table 22.80.090(G)(1):  
Wetland Mitigation Replacement Ratios**

Category and Type of Wetland	Creation or Reestablishment	Rehabilitation	Enhancement
I (Bog and wetlands of high conservation value)	Not considered possible	Case by case	Case by case
I (Mature forested)	6:1	12:1	24:1
I (Based on functions)	4:1	8:1	16:1
II	3:1	6:1	12:1
III	2:1	4:1	8:1
IV	1.5:1	3:1	6:1

- 757 c. Off Site and In-Kind. The city may consider and approve off-site compensation where the  
 758 applicant can demonstrate that equivalent or greater biological and hydrological functions and  
 759 values will be achieved. The compensation may include restoration, creation, or enhancement of  
 760 wetland or streams so long as the project is within the same subdrainage basin. The compensation  
 761 formulas required in subsection (G)(4)(c) of this section shall apply for off-site compensation as well.  
 762 d. Increased Replacement Ratios. The zoning administrator may increase the ratios under the  
 763 following circumstances:  
 764 i. Uncertainty exists as to the probable success of the proposed restoration or creation due to  
 765 an unproven methodology or proponent; or  
 766 ii. A significant period will elapse between impact and replication of wetland functions; or  
 767 iii. The impact was unauthorized.  
 768 5. Decreased Replacement Ratios. The city may decrease the ratios required in subsection (G)(4)(c) of  
 769 this section when all the following criteria are met:  
 770 a. A minimum replacement ratio of one to one will be maintained;  
 771

772 b. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation  
773 actions have a very high rate of success;

774 c. Documentation by a qualified wetlands specialist demonstrates that the proposed mitigation  
775 actions will provide functions and values that are significantly greater than the wetland being  
776 impacted; and

777 d. The proposed mitigation actions are conducted in advance of the impact and have been shown  
778 to be successful.

779 6. Credit/Debit Method. To more fully protect functions and values, and as an alternative to the  
780 mitigation ratios found in the joint guidance "Wetland Mitigation in Washington State Parts I and II"  
781 (Ecology Publication No. 06-06-011a and b, Olympia, WA, March, 2006), the zoning administrator may  
782 allow mitigation based on the "credit/debit" method developed by the Department of Ecology in  
783 "Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Final  
784 Report" (Ecology Publication No. 10-06-011, Olympia, WA, March 2012), or as revised.

785 7. Wetland Enhancement as Mitigation.

786 a. Impacts to wetlands may be mitigated by enhancement of existing significantly degraded  
787 wetlands only after a one-to-one minimum acreage replacement ratio has been satisfied. Applicants  
788 proposing to enhance wetlands must produce a critical areas report that identifies how enhancement  
789 will increase the functions and values of the degraded wetland and how this increase will adequately  
790 mitigate for the loss of wetland function at the impact site.

791 b. At a minimum, enhancement acreage shall be four times the acreage required for creation  
792 acreage under subsection (G)(4)(c) of this section. The ratios shall be greater than four times the  
793 required acreage when the enhancement proposal would result in minimal gain in the performance  
794 of wetland functions currently provided in the wetland.

795 c. Mitigation Plans for Alterations to Wetlands and Wetland Buffers. Mitigation plans shall be  
796 consistent with the State Department of Ecology Wetland Mitigation in Washington State, Parts 1  
797 and 2 (Publications No. 06-06-011a and b, 2006), or as revised. At a minimum, the following  
798 components shall be included in a complete mitigation plan:

799 i. Baseline Information. Provide existing conditions information for both the impacted critical  
800 area and the proposed mitigation site as described in MMC 22.80.070(C), General Critical Area  
801 Report Requirements, and MMC 22.80.070(D), Additional Wetland Report Requirements.

802 ii. Environmental Goals and Objectives. The mitigation plan shall include a written report  
803 identifying environmental goals and objectives of the compensation proposed and include:

804 (1) A description of the anticipated impacts to the critical areas and the mitigating actions  
805 proposed and the purposes of the compensation measures, including the site selection  
806 criteria, identification of compensation goals, identification of resource functions, and dates  
807 for beginning and completing site compensation construction activities. The goals and  
808 objectives shall be related to the functions and values of the impacted critical area; and  
809 (2) A review of the best available science supporting the proposed mitigation.

810 iii. Performance Standards. The mitigation plan shall include measurable specific criteria for  
811 evaluating whether or not the goals and objectives of the mitigation project have been  
812 successfully attained and whether or not the requirements of this chapter have been met. They  
813 may include water quality standards, species richness and diversity targets, habitat diversity  
814 indices, or other ecological, geological, or hydrological criteria.

815 iv. Detailed Construction Plan. These are the written specifications and descriptions of  
816 mitigation techniques. This plan should include the proposed construction sequencing, grading  
817 and excavation details, erosion and sedimentation control features, a native planting plan, and  
818 detailed site diagrams and any other drawings appropriate to show construction techniques or  
819 anticipated final outcome.

820 v. Monitoring and/or Evaluation Program. The mitigation plan shall include a program for  
821 monitoring construction of the compensation project, and for assessing a completed project. A  
822 protocol shall be included outlining the schedule for site monitoring, and how the monitoring data  
823 will be evaluated to determine if the performance standards are being met. A monitoring report  
824 shall be submitted as needed to document milestones, successes, problems, and contingency  
825 actions of the compensation project. The compensation project shall be monitored for a minimum

- 826 of five years, ten years when establishing woody vegetation, or a period necessary to establish  
827 that performance standards have been met.
- 828 vi. Contingency Plan. This section identifies potential courses of action, and any corrective  
829 measures to be taken when monitoring or evaluation indicates projected performance standards  
830 have not been met.
- 831 8. Wetland Mitigation Banks. An alternative to on-site permittee-responsible mitigation involves use of  
832 wetland mitigation banks.
- 833 a. Credits from a wetland mitigation bank may be approved for use as compensation for  
834 unavoidable impacts to wetlands when:
- 835 i. The bank is certified under state rules (Chapter 173-700 WAC);
- 836 ii. The city determines that the wetland mitigation bank provides appropriate compensation for  
837 the authorized impacts; and
- 838 iii. The proposed use of credits is consistent with the terms and conditions of the certified bank  
839 instrument.
- 840 b. Replacement ratios for projects using bank credits shall be consistent with replacement ratios  
841 specified in the certified bank instrument.
- 842 c. Credits from a certified wetland mitigation bank may be used to compensate for impacts located  
843 within the service area specified in the certified bank instrument.
- 844
- 845

**22.80.100 Stream Development Standards.**

- 846 A. General Standards. Activities may only be permitted in a stream or stream buffer if the applicant can  
847 show that the proposed activity will not degrade the functions and values of the stream, stream buffer, or  
848 other critical area.
- 849 1. Type 1, 2, and 3 Streams. Activities and uses shall be prohibited in Type 1, 2, and 3 streams except as  
850 provided for in the public agency and utility exception, reasonable use exception, and variance sections of  
851 this chapter (see MMC 22.80.050, Applicability, Exemptions, and Exceptions).
- 852 2. Type 4 and 5 Streams. Activities and uses that result in unavoidable and necessary impacts may be  
853 permitted in Type 4 and 5 streams and buffers in accordance with an approved critical areas report and  
854 mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish  
855 the applicant's objectives.
- 856 3. Stream Crossings. Stream crossings shall be minimized, but when necessary they shall conform to  
857 the following standards as well as other applicable laws (see the state Department of Fish and Wildlife,  
858 or Ecology).
- 859 a. The stream crossing is the only reasonable alternative that has the least impact;
- 860 b. It has been shown in the critical areas report that the proposed crossing will not decrease the  
861 stream and associated buffer functions and values;
- 862 c. All stream crossings using culverts shall use super span or oversized culverts with appropriate  
863 fish enhancement measures. Culverts shall not obstruct fish passage;
- 864 d. All stream crossings shall be constructed during the summer low flow period between June 15th  
865 and September 15th or as specified by the state Department of Fish and Wildlife in the hydraulic  
866 project approval;
- 867 e. Stream crossings shall not occur through salmonid spawning areas unless no other feasible  
868 crossing site exists;
- 869 f. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high  
870 water marks unless no other feasible alternative placement exists;
- 871 g. Stream crossings shall not diminish the flood-carrying capacity of the stream;
- 872 h. Stream crossings shall provide for maintenance of culverts and bridges; and
- 873 i. Stream crossings shall be minimized by serving multiple properties whenever possible.
- 874 4. Relocations. Type 4 streams beyond one-quarter mile of a stream with salmonids and Type 5  
875 streams may be relocated with appropriate floodplain protection measures under the following  
876 conditions:
- 877 a. Stream and buffer functions in the relocated stream section must be equal to or greater than the  
878 functions and values provided by the stream and buffer prior to relocation;
- 879 b. The equivalent base flood storage volume shall be maintained;

880 c. There shall be no impact to local groundwater;  
881 d. There shall be no increase in water velocity;  
882 e. There is no interbasin transfer of water;  
883 f. The relocation shall occur on-site and shall not result in additional encumbrances on neighboring  
884 properties unless necessary easements and waivers are obtained from affected property owners;  
885 g. The alteration conforms to other applicable laws or rules, including erosion control in accordance  
886 with the city of Monroe public works design and construction standards;  
887 h. The required mitigation plan has been reviewed and approved by the city of Monroe; and  
888 i. The studies required in the critical areas regulations section of these regulations shall be  
889 submitted and approved.

890 5. Trails. The criteria for alignment, construction, and maintenance of trails within wetlands and their  
891 buffers shall apply to trails within stream buffers. The criteria for stream crossings shall also apply.  
892 6. Utilities. The criteria for alignment, construction, and maintenance within the wetland buffers shall  
893 apply to utility corridors within stream buffers. In addition, corridors shall not be aligned parallel with any  
894 stream channel unless the corridor is outside the buffer, and crossings shall be minimized. Crossings  
895 shall be contained within the existing footprint of an existing road or utility crossing where possible.  
896 Otherwise, crossings shall be at an angle greater than sixty degrees to the centerline of the channel.  
897 The criteria for stream crossing shall also apply.

898 7. Floodway-Dependent Structures. Floodway-dependent structures or installations may be permitted  
899 within streams if allowed or approved by other ordinances or other agencies with jurisdiction.

900 8. Stream Channel Stabilization. Stream bank stabilization shall only be allowed when it is shown,  
901 through a stream bank stability assessment conducted by a qualified fluvial geomorphologist or  
902 hydraulic engineer, that such stabilization is required for public safety reasons, that no other less  
903 intrusive actions are possible, and that the stabilization will not degrade in-stream or downstream  
904 channel stability. Stream bank stabilization shall conform to the Integrated Streambank Protection  
905 Guidelines developed by the Washington State Department of Fish and Wildlife, 2002 or as revised.

906 B. Best Available Science. Any approval of alterations of impacts to a stream or its buffers shall be  
907 supported by the best available science.

908 C. Native Growth Protection Easement/Critical Areas Tract. As part of the implementation of approved  
909 development applications and alterations, streams and their buffers shall remain undeveloped pursuant to  
910 the critical areas regulations, in accordance with MMC 22.80.080, Protection and Mitigation Measures, and  
911 shall be designated as native growth protection easements (NGPE). These include Type 1, 2, 3, and 4  
912 streams when located within one-quarter mile of a stream with salmonids, unless the city has waived the  
913 NGPE requirements (see below), or where the alteration section expressly exempts Type 5 streams and  
914 Type 4 streams, when beyond one-quarter mile of a stream with salmonids, from an NGPE. Where a  
915 stream or its buffer has been altered on the site prior to approval of the development proposal, the area  
916 altered shall be restored using native plants and materials. The restoration work shall be done pursuant to  
917 an approved mitigation plan.

918 The city may waive the NGPE requirements on Type 4 streams, when located beyond one-quarter mile of a  
919 stream with salmonids, and Type 5 streams and their buffers if all the following criteria are met:

920 1. The stream does not flow directly into a stream used by salmonids;  
921 2. The stream is not in a critical drainage basin;  
922 3. All buffer, building setback line, and floodplain distances are identified on the appropriate documents  
923 of title;  
924 4. The stream channel and buffer are maintained as a vegetated open swale without altering the  
925 channel dimensions or alignment and are recorded in a drainage easement to the city of Monroe that  
926 requires that the channel remain open and vegetated for water quality and hydrologic purposes;  
927 5. All clearing proposed within the stream and its buffer shall occur between April 1 and September 1,  
928 or as further restricted by timing limits established by the state Department of Fish and Wildlife, and  
929 shall meet all erosion and sedimentation requirements of the city;  
930 6. There are no downstream flooding or erosion problems within one-half mile of the site;  
931 7. The stream is not within an erosion hazard area; and  
932 8. No existing water wells are within or adjacent to the stream.

933 When the subject development is a formal subdivision or a short subdivision, the streams and their buffers  
934 shall be placed in a critical areas tract instead of an NGPE, as described in MMC 22.80.080, Protection and  
935 Mitigation Measures.

936 D. Minimum Buffers. The following buffers are the minimum requirements. All buffers shall be measured  
937 from the ordinary high water mark (OHWM).

- 938 1. Type 1 streams shall have a two-hundred-foot buffer on each side of the channel.
- 939 2. Type 2 streams shall have a two-hundred-foot buffer on each side of the channel.
- 940 3. Type 3 streams shall have a two-hundred-foot buffer on each side of the channel.
- 941 4. Type 4 streams, within a quarter mile of a stream with salmonids, shall have a buffer of one hundred  
942 fifty feet on each side of the channel.
- 943 5. Type 4 streams, beyond a quarter mile of a stream with salmonids, shall have a buffer of seventy-  
944 five feet on each side of the channel.
- 945 6. Type 5 streams shall have a fifty-foot buffer on each side of the channel.
- 946 7. Unclassified streams shall be assigned a rating based on the critical areas report and field  
947 verification, and the appropriate buffer shall apply.

948 E. Additional Buffers. The city may require increased buffer sizes as necessary to protect streams when  
949 either the stream is particularly sensitive to disturbances or the development poses unusual impacts.  
950 Examples of circumstances that may require buffers beyond minimum requirements include, but are not  
951 limited to:

- 952 1. Unclassified uses;
- 953 2. The stream is in a critical drainage basin as designated by the city of Monroe;
- 954 3. The stream reach adjacent to the development proposal serves as critical fish habitat for spawning  
955 and rearing;
- 956 4. The stream serves as habitat for endangered, threatened, rare, sensitive, or monitor species listed  
957 by the federal government or the state of Washington;
- 958 5. The land adjacent to the stream and its associated buffer and included within the development  
959 proposal is classified as an erosion hazard area; or
- 960 6. A trail in excess of ten percent of the buffer width is proposed for inclusion in the buffer.

961 F. Buffer Reductions. The city may reduce up to twenty-five percent of the buffer requirement only if  
962 sufficient information is available showing:

- 963 1. The applicant has demonstrated that mitigation sequencing efforts have been appropriately utilized:  
964 avoid, minimize, and lastly mitigate;
- 965 2. The proposed buffer reduction shall be accompanied by a mitigation plan that includes enhancement  
966 of the reduced buffer area;
- 967 3. The reduction will not adversely affect directly or indirectly the critical area and/or buffer in the short  
968 or long term;
- 969 4. The reduction will not adversely affect water quality;
- 970 5. The reduction will not destroy, damage or disrupt a significant habitat area; and
- 971 6. The reduction is necessary for reasonable development of the subject property.

972 G. Buffer Averaging. The city will consider the allowance of buffer averaging only when the buffer area after  
973 the averaging is no less than that which would be contained within the standard buffer. Additionally, the  
974 buffer width shall not be reduced by more than twenty-five percent at any one point as a result of the buffer  
975 averaging. The buffer width reduction will not adversely impact the critical area and/or its buffer functions  
976 and values.

977 H. Additional Stream Mitigation Requirements. No net loss of stream functions and values shall occur as a  
978 result of the overall project. The mitigation requirements for stream alterations, in addition to the  
979 requirements in MMC 22.80.080, Protection and Mitigation Measures, shall meet the following minimum  
980 performance standards and shall occur pursuant to an approved mitigation plan:

- 981 1. Maintain or improve stream channel dimensions, including depth, length, and gradient;
- 982 2. Restore disturbed stream buffer areas with native vegetation;
- 983 3. Create an equivalent or improved channel bed;
- 984 4. Create equivalent or improved biofiltration; and
- 985 5. Replace disturbed stream and stream buffer habitat features and areas.

- 986 I. Mitigation Plans for Alteration to Streams and Stream Buffers. The scope and content of a mitigation  
987 plan shall be decided on a case-by-case basis; as the impacts to the critical area increase, the mitigation  
988 measures to offset these impacts will increase in number and complexity. At a minimum, the following  
989 components shall be included in a complete mitigation plan:
- 990 1. Baseline Information. Provide existing conditions information for both the impacted critical areas and  
991 the proposed mitigation site, as described in MMC 22.80.070(C), General Critical Area Report  
992 Requirements, and MMC 22.80.070(E), Additional Stream Report Requirements.
  - 993 2. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying  
994 environmental goals and objectives of the compensation proposed and including:
    - 995 a. Description of the anticipated impacts to the critical areas, the mitigating actions proposed, and  
996 the purposes of the compensation measures, including the site selection criteria, identification of  
997 compensation goals, identification of resource functions, and dates for beginning and completing site  
998 compensation construction activities. The goals and objectives shall be related to the functions and  
999 values of the impacted critical area; and
    - 1000 b. A review of the best available science supporting the proposed mitigation.
  - 1001 3. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating  
1002 whether or not the goals and objectives of the mitigation project have been successfully attained and  
1003 whether or not the requirements of this chapter have been met. They may include water quality  
1004 standards, species richness and diversity targets, habitat diversity indices, or other ecological,  
1005 geological, or hydrological criteria.
  - 1006 4. Detailed Construction Plan. These are the written specifications and descriptions of mitigation  
1007 technique. This plan should include the proposed construction sequencing, grading and excavation  
1008 details, erosion and sedimentation control features, a native planting plan, and detailed site diagrams  
1009 and any other drawings appropriate to show construction techniques or anticipated final outcome.
  - 1010 5. Monitoring and/or Evaluation Program. The mitigation plan shall include a program for monitoring  
1011 construction of the compensation project, and for assessing a completed project. A protocol shall be  
1012 included outlining the schedule for site monitoring, and how the monitoring data will be evaluated to  
1013 determine if the performance standards are being met. A monitoring report shall be submitted as  
1014 needed to document milestones, successes, problems, and contingency actions of the compensation  
1015 project. The compensation project shall be monitored for five years or a period necessary to establish  
1016 that performance standards have been met.
  - 1017 6. Contingency Plan. This section identifies potential courses of action, and any corrective measures to  
1018 be taken when monitoring or evaluation indicates projected performance standards have not been met.

1019 The city of Monroe shall determine during the review of the requested studies which of the above  
1020 components shall be required as part of the mitigation plan. Key factors in this determination shall be the  
1021 size and nature of the development proposal, the nature of the impacted critical areas, and the degree of  
1022 cumulative impacts on the critical area from other development proposals.

#### 1023 **22.80.110 Fish and Wildlife Habitat Conservation Areas Standards.**

1025 A. General Standards. Fish and wildlife habitat conservation areas may be altered only if the proposed  
1026 alteration of the habitat or the mitigation proposed does not degrade the qualitative functions and values of  
1027 the habitat. All new structures and land alterations shall be prohibited from habitat conservation areas,  
1028 except in accordance with this chapter.

1029 No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation  
1030 area unless authorized by a state or federal permit or approval.

1031 Mitigation sites shall be located to achieve contiguous wildlife habitat corridors in accordance with a  
1032 mitigation plan that is part of an approved critical areas report to minimize the isolating effects of  
1033 development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic  
1034 ecosystem as the area disturbed.

1035 B. Conditions. The zoning administrator shall condition approvals of activities allowed within or adjacent to  
1036 a habitat conservation area or its buffer, as necessary to minimize or mitigate any potential adverse  
1037 impacts. Conditions may include:

- 1038 1. Establishment of buffer zones;

- 1039 2. Preservation of critically important vegetation;  
1040 3. Limitation of access to the habitat area, including fencing to deter unauthorized access;  
1041 4. Seasonal restrictions of construction activities;  
1042 5. Establishment of a duration and timetable for periodic review of mitigation activities; and  
1043 6. Requirement of a performance bond, when necessary, to ensure completion.
- 1044 C. Mitigation. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater  
1045 biological functions and shall include mitigation for adverse impacts upstream and downstream of the  
1046 development proposal site. Mitigation shall address each function affected by the alteration to achieve  
1047 functional equivalency or improvement on a per function basis.
- 1048 D. Best Available Science. Any approval of alterations or impacts to habitat conservation area shall be  
1049 supported by the best available science.
- 1050 E. Native Growth Protection Easement/Critical Area Tract. As part of the implementation of approved  
1051 development applications and alterations, fish and wildlife habitat conservation areas and any associated  
1052 buffers that remain undeveloped pursuant to the critical areas regulations, in accordance with MMC  
1053 22.80.080, Protection and Mitigation Measures, shall be designated as native growth protection easements  
1054 (NGPE).
- 1055 When the subject development is a formal subdivision or a short subdivision, the fish and wildlife habitat  
1056 conservation area(s) and any associated buffers shall be placed in a critical areas tract instead of an NGPE,  
1057 as described in MMC 22.80.080, Protection and Mitigation Measures.
- 1058 F. Buffers.
- 1059 1. Buffer areas shall be established for areas of activity in, or adjacent to, habitat conservation areas  
1060 when needed to protect such areas. Buffers shall consist of an undisturbed area of native vegetation, or  
1061 areas identified for restoration, established to protect the integrity, function and values of the affected  
1062 habitat. Required buffer widths shall reflect the sensitivity of the habitat and type and intensity of human  
1063 activity proposed to be conducted nearby, and shall be consistent with the management  
1064 recommendations issued by the state Department of Fish and Wildlife.
- 1065 2. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal  
1066 restrictions may apply. Larger buffers may be required and activities may be further restricted during the  
1067 seasonal period.
- 1068 G. Endangered, Threatened, and Sensitive Species.
- 1069 1. No development shall be allowed within a habitat conservation area or any associated buffer with  
1070 which state or federally endangered, threatened, or sensitive species have a primary association.
- 1071 2. Whenever activities are proposed adjacent to a habitat conservation area with which state or  
1072 federally endangered, threatened, or sensitive species have a primary association, such areas shall be  
1073 protected through the application of protection measures in accordance with a critical areas report  
1074 prepared by a qualified professional and approved by the city. Approval of alteration of land adjacent to  
1075 the habitat conservation area or any associated buffer shall not occur prior to consultation with the state  
1076 Department of Fish and Wildlife and the appropriate federal agency, if applicable.
- 1077 3. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules  
1078 (WAC 232-12-292).
- 1079 H. Anadromous Fish.
- 1080 1. Activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or  
1081 in areas that affect such water bodies shall give special consideration to the preservation and  
1082 enhancement of anadromous fish habitat, including, but not limited to, the following:
- 1083 a. Activities shall be timed to occur only during the allowable work window as designated by the  
1084 state Department of Fish and Wildlife;
- 1085 b. An alternative alignment or location for the activity is not feasible;
- 1086 c. The activity is designed so that it will minimize the degradation of the functions or values of the  
1087 fish habitat or other critical areas; and
- 1088 d. Any impact to the functions and values of the habitat conservation area are mitigated in  
1089 accordance with an approved critical areas report.
- 1090 2. Structures that prevent the migration of salmonids shall not be allowed in the portion of water bodies  
1091 currently or historically used by anadromous fish. Fish bypass facilities shall be provided that allow the

1092 upstream migration of adult fish and shall prevent juveniles migrating downstream from being trapped or  
1093 harmed.  
1094 3. Fills, when authorized, shall minimize the adverse impacts to anadromous fish and their habitat,  
1095 shall mitigate any unavoidable impacts, and shall only be allowed for water-dependent uses.  
1096

1097 **22.80.120 Flood Hazard Area Development Standards.**

1098 All development proposals in an area of special flood hazard, as defined in MMC 22.12.200, are subject to  
1099 the regulations in Chapter 14.01 MMC.  
1100

1101 **22.80.130 Geologically Hazardous Areas.**

1102 A. Designation. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or  
1103 other geological events. They pose a threat to the health and safety of citizens when incompatible  
1104 development is sited in areas of significant hazard. Such incompatible development may not only place  
1105 itself at risk, but may also increase the hazard to surrounding development and uses. Areas susceptible to  
1106 one or more of the following types of hazards shall be designated as a geologically hazardous area:

- 1107 1. Erosion hazard;
- 1108 2. Landslide hazard;
- 1109 3. Seismic hazard; and
- 1110 4. Other geological events including tsunami, mass wasting, debris flows, rock falls, and differential  
1111 settlement.

1112 B. Designation of Specific Geologic Hazard Areas.

- 1113 1. Erosion Hazard Areas. Erosion hazard areas are at least those areas identified by the U.S.  
1114 Department of Agriculture's Natural Resources Conservation Service as having "severe" or "very  
1115 severe" rill and inter-rill erosion hazard.
- 1116 2. Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based  
1117 on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible  
1118 because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or  
1119 other factors. Examples of these may include, but are not limited to, the following:
  - 1120 a. Areas of historic failure, such as:
    - 1121 i. Those areas delineated by the U.S. Department of Agriculture's Natural Resources  
1122 Conservation Service as having a "severe" limitation for building site development; or
    - 1123 ii. Areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps  
1124 published by the U.S. Geological Survey or Department of Natural Resources.
  - 1125 b. Areas with all three of the following characteristics:
    - 1126 i. Slopes steeper than fifteen percent; and
    - 1127 ii. Hillsides intersecting geologic contacts with a relatively permeable sediment overlaying a  
1128 relatively impermeable sediment or bedrock; and
    - 1129 iii. Springs or groundwater seepage.
  - 1130 c. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to  
1131 the present) or that are underlain or covered by mass wastage debris of that epoch;
  - 1132 d. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint  
1133 systems, and faults) in subsurface materials;
  - 1134 e. Slopes having a gradient steeper than eighty percent subject to rock fall during seismic shaking;
  - 1135 f. Areas potentially unstable because of rapid stream incision, stream bank erosion, and  
1136 undercutting by wave action;
  - 1137 g. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to  
1138 inundation by debris flows or catastrophic flooding; and
  - 1139 h. Any area with a slope of forty percent or steeper and with a vertical relief of ten or more feet  
1140 except areas composed of consolidated rock. A slope delineated by establishing its toe and top and  
1141 measured by averaging the inclination over at least ten feet of vertical relief.
- 1142 3. Seismic Hazard Areas. Seismic hazard areas are subject to severe risk of damage as a result of  
1143 earthquake-induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or  
1144 surface failure. The strength of ground shaking is primarily affected by:
  - 1145 a. The magnitude of an earthquake;

- 1146 b. The distance from the source of an earthquake;  
1147 c. The type and thickness of geologic materials at the surface; and  
1148 d. The type of subsurface geological structure.
- 1149 C. Mapping of Geologically Hazardous Areas.
- 1150 1. The approximate location and extent of geologically hazardous areas are shown on the adopted  
1151 critical areas maps. The adopted critical areas maps include:
- 1152 a. U.S. Geological Survey landslide hazard, seismic hazard, and volcanic hazard maps;  
1153 b. Department of Natural Resources seismic hazard maps of Western Washington, as they become  
1154 available;  
1155 c. Department of Natural Resources slope stability maps, as they become available;  
1156 d. Federal Emergency Management Administration flood insurance maps; and  
1157 e. Locally adopted maps.
- 1158 2. These maps are to be used as a guide for the city of Monroe, project applicants, and/or property  
1159 owners, and may be continuously updated as new critical areas are identified. They are a reference and  
1160 do not provide a final critical area designation.
- 1161 D. Best Available Science. Any approval of alterations of impacts to a geologically hazardous area or any  
1162 associated buffers shall be supported by the best available science.
- 1163 E. Native Growth Protection Easement/Critical Area Tract. As part of the implementation of approved  
1164 development applications and alterations, geologically hazardous areas and any associated buffers that  
1165 remain undeveloped pursuant to the critical areas regulations, in accordance with MMC 22.80.080,  
1166 Protection and Mitigation Measures, shall be designated as native growth protection easements (NGPE).  
1167 When the subject development is a formal subdivision (plat) or a short subdivision (short plat), the  
1168 geologically hazardous area(s) and any buffers shall be placed in a critical areas tract instead of an NGPE,  
1169 as described in MMC 22.80.080, Protection and Mitigation Measures.
- 1170 F. Allowed Activities. The following activities are allowed in geologically hazardous areas and do not  
1171 require submission of a critical areas report:
- 1172 1. Erosion and Landslide Hazard Areas. Except as otherwise provided for in this chapter, only those  
1173 activities approved and permitted consistent with an approved critical areas report in accordance with  
1174 this chapter shall be allowed.
- 1175 2. Seismic Hazard Areas. The following activities are allowed within seismic hazard areas:  
1176 a. Construction of new buildings and/or additions will be reviewed on a case-by-case basis.  
1177 b. Installation of fences.
- 1178 3. Other Hazard Areas. The following activities areas are allowed within other geological hazard areas:  
1179 a. Construction of new buildings and/or additions will be reviewed on a case-by-case basis.  
1180 b. Installation of fences.
- 1181 G. Performance Standards – General Requirements.
- 1182 1. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:  
1183 a. Will not increase the threat of the geological hazard to adjacent properties beyond  
1184 predevelopment conditions;  
1185 b. Will not adversely impact other critical areas;  
1186 c. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or  
1187 less than predevelopment conditions; and  
1188 d. Are certified as safe as designed and under anticipated conditions by a qualified geotechnical  
1189 engineer or geologist, licensed in the state of Washington.
- 1190 H. Performance Standards – Specific Hazards.
- 1191 1. Erosion and Landslide Hazard Areas. Activities on sites containing erosion or landslide hazards shall  
1192 meet the following requirements:
- 1193 a. Buffers Required. A buffer shall be established for all edges of erosion or landslide hazard areas.  
1194 The size of the buffer shall be determined by the city to eliminate or minimize the risk of property  
1195 damage, death, or injury resulting from erosion and landslides caused in whole or part by the  
1196 development, based upon review of and concurrence with a critical areas report prepared by a  
1197 qualified professional.  
1198 b. Minimum Buffers. The minimum buffer shall be equal to the height of the slope or fifty feet,  
1199 whichever is greater.

1200 c. Buffer Reduction. The buffer may be reduced to a minimum of ten feet when a qualified  
1201 professional demonstrates to the zoning administrator's satisfaction that the reduction will  
1202 adequately protect the proposed development, adjacent developments and uses, and the subject  
1203 critical area.

1204 d. Increased Buffer. The buffer may be increased when the zoning administrator determines a  
1205 larger buffer is necessary to prevent risk of damage to proposed and existing development.

1206 e. Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for  
1207 activities for which a geotechnical analysis is submitted and certifies that:

1208 i. The development will not increase surface water discharge or sedimentation to adjacent  
1209 properties beyond the predevelopment condition;

1210 ii. The development will not decrease slope stability on adjacent properties; and

1211 iii. Such alteration will not adversely impact other critical areas.

1212 I. Design Standards. Development within an erosion or landslide hazard area and/or buffer shall be  
1213 designed to meet the following basic requirements unless it can be demonstrated that an alternative design  
1214 that deviates from one or more of these standards provides greater long-term slope stability while meeting  
1215 all other provisions of this chapter. The requirements for long-term slope stability shall exclude designs that  
1216 require regular and periodic maintenance to maintain their level of function. The basic development design  
1217 standards are:

1218 1. The proposed development shall not decrease the factor of safety for landslide occurrences below  
1219 the limits of one and one-half for static condition and one and two-tenths for dynamic conditions.  
1220 Analysis of dynamic conditions shall be based on a minimum horizontal acceleration as established by  
1221 the current version of the International Building Code;

1222 2. Structures and improvements shall be clustered to avoid geologically hazardous areas and other  
1223 critical areas;

1224 3. Structures and improvements shall minimize alterations to the natural contours of the slope and  
1225 foundations shall be tiered where possible to conform to existing topography;

1226 4. Structures and improvements shall be located to preserve the most critical portion of the site and its  
1227 natural landforms and vegetation;

1228 5. The proposed development shall not result in greater risk or a need for increased buffers on  
1229 neighboring properties;

1230 6. The use of retaining walls that allow the maintenance of existing natural slopes is preferred over  
1231 graded artificial slopes; and

1232 7. Development shall be designed to minimize impervious lot coverage.

1233 J. Vegetation. Vegetation shall be retained unless it can be shown that the removal will not increase the  
1234 geologic hazards, and a vegetation management plan is submitted with the request.

1235 K. Seasonal Restriction. Clearing shall be allowed only from May 1st to October 1st of each year; provided,  
1236 that the city may extend or shorten the dry season on a case-by-case basis depending on the actual  
1237 weather conditions, except that timber harvest, not including brush clearing or stump removal, may be  
1238 allowed pursuant to an approved forest practices permit issued by the state Department of Natural  
1239 Resources.

1240 L. Utility Lines and Pipes. Utility lines and pipes shall be permitted in the erosion and landslide hazard  
1241 areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe  
1242 shall be located above ground and be properly anchored and/or designed so that it will continue to function  
1243 in the event of an underlying slide. Storm water conveyance shall be allowed only through a high-density  
1244 polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.

1245 M. Point Discharge. Point discharges from surface water facilities and roof drains onto or upstream from an  
1246 erosion or landslide hazard area shall be prohibited except as follows:

1247 1. Conveyance via continuous storm pipe downslope to a point where there are no erosion hazard  
1248 areas downstream from the discharge; and

1249 2. Access roads and utilities may be permitted within the erosion or landslide hazard area and  
1250 associated buffers if the city determines that no other feasible alternative exists.

1251 N. Subdivisions. The division of land in erosion or landslide hazard areas and associated buffers is subject  
1252 to provisions established for all critical areas in MMC 22.80.080, Protection and Mitigation Measures.

1253 O. Prohibited Development. On-site sewage disposal systems, including drain fields, shall be prohibited  
1254 within erosion and landslide hazard areas and associated buffers.

1255 **22.80.140 Bonds.**

1256 An applicant for development within a critical area as identified herein may be required to furnish the city  
1257 with a performance bond and/or maintenance bond for any required mitigating measures. The city attorney  
1258 or zoning administrator shall determine the amount and time limitation of the bond or other security.  
1259

1260 **22.80.150 Appeal.**

1261 Appeals of administrative decisions shall be governed by MMC Chapter 22.84, Permit Processing.

1262 **22.80.160 Enforcement.**

1263 The provisions of MMC Chapter 22.10, Administration and Enforcement, shall regulate the enforcement of  
1264 these critical areas regulations.

1265 Adherence to the provisions of this chapter and/or to the project conditions shall be required throughout the  
1266 construction of the development. Should the zoning administrator determine that a development is not in  
1267 compliance with the approved plans, a stop work order may be issued for the violation. In the event of a  
1268 violation of this chapter, the zoning administrator shall have the power to order complete or partial  
1269 restoration of the critical area by the person or agent responsible for the violation. If such responsible  
1270 person or agent does not complete such restoration within a reasonable time following the order, the city  
1271 shall have the authority to restore the affected critical area to the prior condition wherever possible and the  
1272 person or agent responsible for the original violation shall be indebted to the city for the cost of restoration.  
1273 When a stop work order has been issued, construction shall not continue until such time as the violation has  
1274 been corrected and that the same or similar violation is not likely to reoccur.  
1275  
1276